No. 1.

BENGAL SECRETARIAT LIBRARY

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, JANUARY 7, 1865.

## Home Department.

### LEGISLATIVE.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 16th December 1864, and was referred to a Select Committee, with instructions to make their report thereon in six weeks :—

No. 25 of 1864.

*A Bill to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.*

Preamble.

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; It is enacted as follows :—

**1.** In this Act—

"Punjab."

"Punjab" means the territories for the time being under the government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge."

"Judge" includes an acting Judge of the Chief Court.

"Barrister."

"Barrister" inclu[illegible]ters of England [illegible]du[illegible] Members of [illegible]

Number.

Words in the sin[illegible] include the plura[illegible] words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

**2.** The Court constituted under this Act, shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing : Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

**3.** The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

**4.** The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court.

**5.** Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before such authority or person as the Lieutenant Governor may commission to receive the same :—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

**6.** The Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the Chief Court. The Registrar shall be the principal ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under Section 30 of this Act.

Seal of Chief Court.

**7.** The Chief Court shall have, and use as occasion may require, a seal to be made under the directions

**33.** If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

Procedure when Chief Court consists of only two Judges and there shall be a difference of opinion—

(1st.)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld:

1st.—On Appeal on a question of fact.

2nd.—If the difference of opinion shall be on a point of law, or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court:

2nd.—On Appeal on a question of law.

(3rd.)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law, or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under Section 27 of this Act:

3rd.—In exercise of original jurisdiction on a question of law.

(4th.)—If the difference of opinion be on a question of fact, the opinion of the Senior judge shall prevail, and he shall pronounce his decision as the decision of the Court. If such decision shall not be appealable to the Queen in Council, the party dissatisfied therewith may apply for a new trial of such question to be held by a jury consisting of not less than seven persons, and the decision of the Court shall be in accordance with the verdict of the majority of such jury.

4th.—In exercise of original jurisdiction on a question of fact.

**34.** Cases so referred for the opinion of the said High Court shall be heard by one or more Judges of such Court, and shall be determined according to the opinion of the majority of the Judges, including in such term not only the Judge or Judges by whom such reference is heard, but also the Judges of the Chief Court by whom the point is referred.

How referred cases to be determined.

**35.** The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakil; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case to the opinion of the High Court under Section [illegible] of this Act, shall be costs in the suit.

Parties may appear in person, or by Advocate.

Transmission of Judgment of High Court, and proceeding thereupon.

Costs of reference to High Court.

**36.** The Chief Court shall keep such registers, books, and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court on the Civil and Criminal sides as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Registers, books, accounts, and statements to be kept and made by Chief Court.

Copies of records to be furnished.

**37.** Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under Section 30 of this Act.

Chief Court's functions exerciseable by single Judge.

**38.** This Act may be cited as "The Punjab Chief Court Act, 1865."

Short title.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to alter the constitution, and enlarge the jurisdiction, of the Chief Court of Judicature of the Punjab.

The Punjab is a Non-Regulation Province: no Act of the Indian Legislature, not specially applicable to the Punjab, or generally applicable to the whole of British India, has force there: the Chief Court of Appeal, Reference, and Revision, is presided over by an Officer called the Judicial Commissioner: this office was constituted by a General Order of the Governor-General in Council in 1849, which, under the Indian Councils' Act, has the force of law.

By this Bill a new Court will be constituted, consisting of two or more Judges, and the jurisdiction of a certain class of cases is transferred to it from the High Court of Calcutta. The measure is recommended by the local Government.

One of the Judges must have the same qualifications as are required for a Barrister Judge of the High Court: the appointment of both Judges rests with the Government of India.

The powers of the Court collectively, [illegible] each Judge separately, are carefully defin[illegible]

As, for the present, only two Judges [illegible] appointed, provision is made for the [illegible] of an irreconcileable difference of opin[illegible] of law betwixt the two Judges.

To secure a uniformity of ruli[illegible] law, no special appeal from any [illegible] any other Court but the Chief [illegible]

Provision is made for the dis[illegible] betwixt the Judges [illegible]

[illegible] al decision of appeals [illegible] d the product of La[illegible] except in those [illegible] notified [illegible] ue is [illegible]

The sa[illegible] ction is vested in [illegible] e new Co[illegible] wh[illegible] red by the Letters [illegible] atent to the High Court [illegible] Calcutta.

The new Court is vested with original Criminal jurisdiction over European British subjects: the procedure in such cases is regulated.

*The 6th December* 1864. R. N. CUST.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd December 1864, and was referred to a Select Committee, with instructions to make their report thereon in three weeks :—

No. 27 of 1864.

*A Bill to amend Act XXV of* 1864 *(to provide for the solemnization of Marriages in India of persons professing the Christian Religion).*

Preamble.

Whereas it is expedient to amend Act XXV of 1864 *(to provide further for the solemnization of Marriages in India of persons professing the Christian Religion)*; It is enacted as follows :—

Emendation of Act XXV of 1864, Sec. 7.

1. From and after the passing of this Act, for the following words in the seventh Section of Act XXV of 1864 :—"By a Clergyman of the Church of England according to the rites, rules, ceremonies and customs of that Church," shall be substituted the following words :—"By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies, and customs of the Church of which he is a minister," and such words shall form portion of the said Section.

Act XXV of 1864, Section 24, not to apply to Clergyman of the Church of Rome licensed to solemnize marriages between 7 P. M. and 6 A. M.

2. The provisions of the twenty-fourth Section of Act XXV of 1864 shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese in which such marriage shall so be solemnized, or from such person as the said Bishop shall have authorized to grant such license. And the said twenty-fourth Section shall be read as if the foregoing part of this Section were added thereto as a proviso.

Registration of marriages solemnized by a Clergyman of the Church of Rome.

3. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person [illegible] according to the form [illegible] in that behalf [illegible] the Roman Catholic [illegible] Diocese; [illegible] the twenty-fifth Section of Act XXV of 1864 shall be construed as if the former part of this section were inserted in the same Act next after its twenty-sixth Section.

Part V of Act XXV of 1864 not to apply to marriages between Roman Catholics.

4. From and after the passing of this Act, Part V of Act XXV of 1864 shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate marriages (if any) previously contracted between Roman Catholics under the provisions of the said Part.

Addition to Act XXV of 1864, Section 52.

5. The following words shall be added to and shall form part of the fifty-second Section of Act XXV of 1864 :—"or to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome when he shall have received such general or special license in that behalf as hereinbefore mentioned."

Insertion in Act XXV of 1864, Section 55.

6. In the fifty-fifth Section of Act XXV of 1864 after the words "Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church," shall be introduced the following words :—"or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church;" and such words shall be read as part of the same Section.

Addition to Act XXV of 1864, Section 60.

7. To the sixtieth Section of Act XXV of 1864, the following words shall be added: The words "Church of Rome" and "Roman Catholic," wherever used in this Act, shall mean and apply to the Church which regards the Pope of Rome as its spiritual head.

This Act and Act XXV of 1864, to extend to Straits' Settlement.

8. The provisions of this Act and of Act XXV of 1864 as amended by this Act shall extend to the territory subject to the Government of the Straits' Settlement; and the Governor of such Settlement for the time being shall have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to his Government.

Supreme Court in Straits' Settlement to try offences punishable under Act XXV of 1864.

9. The Supreme Court of Judicature in the Straits' Settlement shall have power to try offences punishable under Act XXV of 1864, and committed within the limits of such Settlement; and the charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court is regulated.

Form annexed to this Act to be substituted for Schedule C to Act XXV of 1864.

10. For Schedule C annexed to Act XXV of 1864 shall be substituted the form annexed to this Act.

## HOME DEP

No

*Fort William, the*

*Notifications.*—Dr. F
Lucknow, has been gran
the 1st instant, or from
himself of the same, to p
tory to applying for fur

N

The Governor Gene
make the following appointments, viz. :—

Dr. H. M. Cannon, Inspector of Prisons in Oudh, to be Civil Surgeon of Lucknow, vice Dr. F. Douglas, from the date on which that Officer may vacate the appointment.

Dr. J. C. Corbyn, Garrison Surgeon, Chunar, to be Inspector of Prisons in Oudh, vice Dr. Cannon.

No. 48.

The Reverend F. C. Viret, Chaplain on the Bengal Establishment, reported his return from leave on the 25th instant.

Mr. Viret's services are placed at the disposal of the Government of Bengal.

No. 49.

*The 5th January* 1865.

The Governor General in Council is pleased to permit Mr. Alan Swinton to resign the Civil Service from the 23rd of November last.

No. 50.

The Governor General in Council is pleased to invest the under-mentioned Officer in the Central Provinces with the powers of a Magistrate, described in Chapter II, Section 22 of Act XXV of 1861, to be exercised in respect of the prisoners located at Mohtoor.

Captain W. G. M. Strickland, Commanding Sappers and Miners at Mohtoor.

No. 51.

*The 6th January* 1865.

The Governor General in Council has been pleased to appoint Mr. N. R. Cumberlege to be Assistant Superintendent of Police of the 2nd grade, in the Berars.

*No.* 218.—John Hodgart, Foreman of the Bombay Mint, now residing in Scotland, for improvements in securing or binding cotton or similar bales.

*No.* 228.—Thomas Frederick Henley, No. 37, Boulevard Malesherbes, Paris, in the Empire of France, for improvements in treating stick-lac when manufacturing shell-lac and lac-dye.

No. 54.

The Reverend E. H. Blyth, Junior Chaplain, is transferred from the North-Western Provinces to Bengal.

R. N. Cust,
*Offg. Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

Political.

No. 5.

*Fort William, the 5th January* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to recognize the appointment of Syud Abdullah bin Omer-el-Djimid as Turkish Consul at Singapore.

General.

No. 6.

Mr. D. Simson, Commissioner, Fyzabad Division, Oudh, resumed charge of his Office from Mr. F. O. Mayne on the forenoon of the 17th of December.

No. 8.

Lieutenants P. W. Powlett and F. W. Grant
ommissioners of the 1st
in the Berars.

10.

Assistant Commissioner,
obtained leave of absence
of January 1865, or any
he may avail himself of
Calcutta preparatory to
Europe on medical cer-

Y

No. 84.

*The 6th January* 1865.

J. Raynor, 1st Assistant Deputy Accountant General, Madras, is allowed leave of absence on medical certi- ension of the twelve months' sick pired on the 17th December 1864.

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

Commissioner of Oudh that land is required to be taken up at the public expense for a public purpose in the district of Oonao, viz., for a Range for Armstrong Guns, it is hereby notified that the under-mentioned land will be appropriated for this purpose, viz., a plot of land 7,000 yards in length by 500 in breadth, commencing from the Behar and Bunnee road, at the village of Kantha, and running in a north-westerly direction, viâ Surae Joga towards Tehseel Nawabgunge, on the Lucknow and Cawnpore Road.

This Declaration is made under Section 2, Act VI of 1857.

J. REID,
*Secy. to Chief Commr., Oudh.*

## FINANCIAL DEPARTMENT.

No. 79.

*Fort William, the 5th January* 1865.

*Notifications.*—The following Despatch from the Right Hon'ble the Secretary of State for India, No. 282, dated 30th November 1864, is published for general information and guidance.

The revised Code of Civil Absentee Rules will be corrected according to the directions in the Despatch.

FINANCIAL. INDIA OFFICE,
No. 282. *London, 30th November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have to acquaint you that it has recently been resolved that Officers of the Indian Civil and Military Services, in this country, on leave of absence, and requiring extensions of leave, instead of being examined by the Examining Physician, as heretofore, shall appear before a Medical Board, of which Sir R. Martin, C. B., is President.

2. In accordance with this arrangement, I have to request that the last Clause of the Appendix to the revised Code of Civil Absentee Rules forwarded with my Financial Despatch dated the 7th instant, No. 262, may be altered as follows :—

"If the applicant for an extension of leave on medical certificate be residing within 20 miles of London, he must produce a certificate from the Medical Board attached to the India Office, showing the necessity for such extension. If residing beyond that distance from London, certificates in the second of the above forms must be produced from two Medical Practitioners."

I have, &c.,
(Signed) C. WOOD.

## MILITARY DEPARTMENT.

*Fort William, the 31st December* 1864.

*No.* 1080 *of* 1864.—The following Military letter, from the Right Hon'ble the Secretary of State for India, No. 141 of the 16th May 1864, is published for general information :—

MILITARY. INDIA OFFICE ;
No. 141. *London, the 16th May* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

My Military letter No. 414, dated 30th November 1863, informed you that I had declined to interfere with the disposal of stocks of Soldiers' necessaries, which had been supplied to Regiments in India by tradesmen in this country, and which remained in the possession of Corps, after the system of supplying these stores was altered.

2. I subsequently received a communication from the Secretary of State for War, suggesting that I should, on the 1st April 1864, take over from Regiments serving in India, such supplies of tradesmen's necessaries as might be then on hand, and charge the Regiments the same price as the tradesmen, the quantities so taken over being credited in the accounts which the Regiments might render to the local authorities.

3. By this arrangement, it was added, the Regimental accounts with tradesmen would be closed, and no expense incurred by the Indian Government.

4. In reply, I observed that I had consented, with a view to assimilate the practice in India to that which had been introduced into the British Army elsewhere, to undertake the provision of Regimental necessaries in future, but that I did not consider it desirable that the Government of India should be in any way mixed up with former transactions between the Regimental Authorities and the tradesmen, which had been, till that time, conducted entirely under War Office Regulati-

6. Secretary Earl de Grey has as[illegible] proposal, on the understanding that, [illegible] arrangements will be made by the W[illegible] payments are to be made by the Ind[illegible]

7. I transmit, for your informatio[illegible] Circular, which, with my approval, [illegible] from the War Department to Officer[illegible] ing Regiments in India.

8. By the terms of this Circular, [illegible] of Regimental necessaries, which hav[illegible] plied by tradesmen, remaining undis[illegible] 1st September next, and in good and [illegible] condition, will be taken over on acc[illegible] Indian Government. On the receipt [illegible] turns from the Regiments, showing th[illegible] stores to be accepted by the Local G[illegible]ments, the amounts due to the tradesmen should be remitted home to the War Office for payment.

9. You will communicate this arrangement to the Governments of Madras and Bombay.

I have, &c.,

(Signed) C. Wood.

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CIRCULAR No. 866—*(Necessaries.)*

War Office, Pall Mall,
*9th June* 1864.

52
Genl. No.
1258.

(India.)

Sir,

I am directed by the Earl de Grey and Ripon to acquaint you that he has decided, with the concurrence of the Secretary of State for India in Council, to relieve the Regiments of all stocks of necessaries belonging to the tradesmen which may be in the Regimental store on the 1st of September next.

I have therefore to request that you will continue to issue the articles of necessaries, the property of the Regimental tradesmen, now in the stores of the Regiment under your Command, up to the 1st September 1864, on which day you should transmit, on the annexed form, a Return of the quantities remaining unissued, and take them over on the public account, continuing to issue the same to the men as heretofore, but crediting the sums realized to the Indian Government. On receipt of these Returns, the India Office will take steps to settle with the Regimental tradesmen for the articles reported unissued on the 1st September, and a credit to a like amount may be taken in the Regimental Books.

These Returns should only include such articles of necessaries as are strictly regulation and authorized by Her Majesty's Warrant, dated 10th Octo-

| Tr[illegible] | Dut[illegible] to | Art[illegible] | Nu[illegible] | Rat[illegible] | £ | s. | d. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

Due to Messrs. ... ... £
Do. to Messrs. ... ... „ } Total value £
Do. to Messrs. ... ... „

I do certify on honor that the above named articles are all in a good and serviceable condition, and were ordered prior to the receipt of the War Office Circular No. dated , and the prices quoted are those which I have been hitherto paying to Regimental tradesmen.

---

*Comdg.*

With reference to the foregoing, His Excellency the Governor General in Council is pleased to direct that Commanding Officers shall, in future make arrangements for the supply of Regimental necessaries under the following regulations; it being clearly understood that all articles taken over from Regiments, as above noticed, are to be issued before any of a similar nature which may be subsequently supplied.

2. Only such articles as cannot be procured locally will be supplied by Government.

3. Commanding Officers will publish in Orders what articles are available from the store, and what must be purchased from the local markets. A Board composed of Captains and Officers Commanding Companies, with the second senior Officer of the Regiment as President, will determine these lists.

[illegible]ized articles of Soldiers' [illegible] procured locally of good [illegible]ates, Commanding Officers [illegible] Batteries of Royal Artil-[illegible]l requisitions in triplicate [illegible] of Clothing at the Presi-[illegible]egiment or Battery may be [illegible]ing to the Form A, annex-[illegible], on arrival at a new station, [illegible]cles not previously included [illegible] cannot be obtained locally, [illegible]ts should be at once sent in

[redacted]

7. The prices charged for these necessaries to Regiments, at whatever station they may be, will be the actual cost of the articles as entered in the priced invoices which will precede or accompany each consignment with the addition of 5 per cent. on their value to cover the cost of packing, freight, and deterioration up to the date of their receipt by the Regiment. The original charges and the percentage will be converted into Indian Currency at 2 shillings per Rupee. The addition to the invoiced price for each particular article will be determined by a Board composed as directed in para. 3, and be published in Regimental Orders.

8. As the issues will be made annually, the payments should, in like manner, be completed, as far as practicable, within twelve months from the receipt of the articles at Regimental Head Quarters.

9. The Regimental stock of necessaries will be under the immediate charge of the Regimental Quarter Master, but Commanding Officers will be responsible for the due care and preservation of, and regular accounting for, these stores. In the Royal Artillery, Officers Commanding Batteries will have charge of the Battery stock of necessaries.

10. All packages containing Soldiers' necessaries, on arrival at the Head Quarters of Regiments or Batteries, are to be opened and carefully inspected by a Board of Officers composed as above directed (para. 3), and a report of their condition and contents duly forwarded to the Examiner of Clothing Accounts.

11. As Government undertakes the supply of these necessaries solely in order to ensure the supply to every Regiment at a reasonable price, at whatever station it may be, it must be distinctly understood that the State will not be responsible for any deterioration which may take place after they have been once received by the Regiment in a serviceable condition. To cover any possible loss owing to deterioration whilst in store, a small additional charge may be made, to be fixed by His Excellency the Commander-in-Chief, but in no case to exceed 3 per cent. on the cost price of each article; but the fund [illegible] solely to meet such los[illegible]

12. Necessaries w[illegible] fixed in Regiments of [illegible] on the requisition of Officers [illegible]ps and Companies, and in the [illegible] the Officers Commanding Bat-[illegible]

[illegible]l Pay Masters or Officers Com-[illegible] will keep the accounts of the [illegible]uch orders as may from time to [illegible]

[illegible]asters of Regiments will furnish [illegible]nt to the Regimental Pay Master [illegible]e charged against each Troop or [illegible]e amount will be credited month-[illegible]tal Pay List, supported by the [illegible] B.—Officers Commanding Bat-[illegible] similar statements to the Circle [illegible]

15. Regimental necessaries will be accounted for half-yearly in a Regimental or Battery account, in the Forms C. D. or E. (according to the Arm of the service), which Statement is to be attached to the Pay Lists for the months of April and October.

16. All articles of Regimental necessaries not peculiar to service in India, which may be in store with a Regiment of British Cavalry or Infantry or a Battery of Royal Artillery ordered Home or to the Colonies, will, as a general rule, be taken with the Regiment or Battery, to be accounted for to the War Office. But articles altogether special to India will be transferred to other Regiments requiring them, under such arrangements as His Excellency the Commander-in-Chief may direct, or be returned into Government store, in communication with the Head of the Clothing Department.

17. Commanding Officers of Regiments or Batteries in want of necessaries may apply to any Regiment or Battery, under orders for relief from India, for the transfer of such necessaries as can be conveniently spared.

18. All articles thus transferred are to be carefully packed and forwarded at the public expense to the Regiment or Battery requiring them. The receiving Officer will furnish a receipt in the Form F., which must be attached as a voucher to the Half-yearly Necessary Account of the Regiment or Battery transferring them.

19. Regimental necessaries will be forwarded on arrival in India to Regimental or Battery Head Quarters at the public expense by the most suitable mode of conveyance available, the charge being paid by the Commissariat Department. On change of quarters, carriage will be supplied in the same manner as for other Regimental stores.

20. In the event of a Regiment or Battery being employed on active service in the Field, only such articles as the Commanding Officer may consider absolutely necessary will [illegible]

[redacted]

# FORM A.

## Requisition for Regimental Necessaries.

I hereby certify that the Stores enumerated in this Indent are absolutely required for the use of the _____ under my command, for a period of twelve months; and I further certify that I have, by a personal inspection of the Books and Stores, satisfied myself that they comprise the least possible quantity necessary for the above purpose.

*Dated* _____

*Signature* _____

*Commanding.*

A

*Requisition for Regimental Necessaries required for the* _____

| Description of Stores. | Established Inspection. | Balance in Stock. | Due on former Indents. | Quantity now Indented for. | Remarks. |
|---|---|---|---|---|---|
| | | | | | |

Description of Stores.

_____ *Quarter Master.*

_____ *Commanding.*

Regiments, to the Super-
for; and the Requisition
company the Requisition

*issued on Repayment to Non-*

*for the Month of*

*given in the Pay List for the*

| ch d. | Total value of each issued. | REMARKS. |
|---|---|---|
| | | |
| Total ... | | |

We hereby Certify that t

by the sale of

Men of the

*Date*

NOTE.—

# FORM C.

## REGIMENTAL NECESSARIES ACCOUNT

FOR

**Infantry Regiments.**

---

*From* _____ *Regt.* _____

*For the Half-year ending* _____

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# FORM D.

## REGIMENTAL NECESSARIES ACCOUNT

FOR

**Cavalry Regiments.**

*From* _____ *Regt.* _____

*For the Half-year ending* _____

FOR CAVALRY

*imental Necessaries Account of*

| List of Articles. | Tins of Black | Brass Balls. | Forage Caps and Straps. | Hair Combs. | Cotton Drawers. | Lancer Girdles. | Gauntlets. | | Woollen Socks. | Cotton Socks. | Holdalls. | Button Brushes. | Clothes Brushes. | Hair Brushes. | Brass Brushes. | Shaving Brushes. | Shoe Brushes. | Pairs Braces. | Horse Pickers. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Remaining in Store on— | | | | | | | | | | | | | | | | | | | |
| Received— | | | | | | | | | | | | | | | | | | | |
| Total ... | | | | | | | | | | | | | | | | | | | |
| Issues. *Issued on Payment.* | | | | | | | | | | | | | | | | | | | |
| May ... ... | | | | | | | | | | | | | | | | | | | |
| June ... ... | | | | | | | | | | | | | | | | | | | |
| July ... ... | | | | | | | | | | | | | | | | | | | |
| August ... ... | | | | | | | | | | | | | | | | | | | |
| September ... ... | | | | | | | | | | | | | | | | | | | |
| October ... ... | | | | | | | | | | | | | | | | | | | |
| November ... ... | | | | | | | | | | | | | | | | | | | |
| December ... ... | | | | | | | | | | | | | | | | | | | |
| January ... ... | | | | | | | | | | | | | | | | | | | |
| February ... ... | | | | | | | | | | | | | | | | | | | |
| March ... ... | | | | | | | | | | | | | | | | | | | |
| April ... ... | | | | | | | | | | | | | | | | | | | |
| *Issued by Transfer.* | | | | | | | | | | | | | | | | | | | |
| To on ... | | | | | | | | | | | | | | | | | | | |
| To on ... | | | | | | | | | | | | | | | | | | | |
| Total ... | | | | | | | | | | | | | | | | | | | |
| Remaining in Store on 186 . ... | | | | | | | | | | | | | | | | | | | |

*Verification Certificate.*

Certified that we have examined the Stock of Regimental Necessaries noted as remaining in Store, and having had counted before us the six articles, taken at random, as named in the margin, have found them to be correct in number.

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NOTE.—The above form of Account is to be sent in Half-yearly

REGIMENTS.

*the* _____ *for the Half-year ending* _____

| Stable Jackets. | Knives. | Forks. | Spoons. | Razors. | Cotton Shirts. | White Trowsers. | Sponges. | Spurs. | Scissors. | Button Stick. | Black Neckties. | Towels. | Flannel Shirts. | Flannel Belts. | Oil Tins. | Helmet Covers. | Puggries. | Webb Surcingles. | Cloth Valises. | Tin Mugs and Covers. | Cakes of Soap. | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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NOTE.—If further space is required for additional articles, a slip of paper can be attached hereto.

CERTIFIED

*Dated* _____

(Signed)

_____ *Captain.*

_____ *Captain.*

_____ *Captain.*

_____ *Quarter Master.*

_____ *Commanding.*

attached to the Pay List for the months of April and October.

# FORM E.

## REGIMENTAL NECESSARIES ACCOUNT

FOR

**Royal Artillery.**

---

*From* _____ *Battery* _____

*For the Half-year ending* _____

---

ROYAL

| | Tins | Brass | Forage | Hair | Cotton | Woollen | Cotton | Holdall | Button | Clothes Brushes. | Hair Brushes. | Shoe Brushes. | Shaving Brushes. | Pairs Braces. | Stable Jackets. | Knives. | Forks. | Spoons. | Razors. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Remaining in Store on— | | | | | | | | | | | | | | | | | | | |
| RECEIVED— | | | | | | | | | | | | | | | | | | | |
| TOTAL - | | | | | | | | | | | | | | | | | | | |
| ISSUES. *Issued on Payment.* | | | | | | | | | | | | | | | | | | | |
| May - - - | | | | | | | | | | | | | | | | | | | |
| June - - - | | | | | | | | | | | | | | | | | | | |
| July - - - | | | | | | | | | | | | | | | | | | | |
| August - - - | | | | | | | | | | | | | | | | | | | |
| September - - | | | | | | | | | | | | | | | | | | | |
| October - - - | | | | | | | | | | | | | | | | | | | |
| November - - | | | | | | | | | | | | | | | | | | | |
| December - - | | | | | | | | | | | | | | | | | | | |
| January - - - | | | | | | | | | | | | | | | | | | | |
| February - - | | | | | | | | | | | | | | | | | | | |
| March - - - | | | | | | | | | | | | | | | | | | | |
| April - - - | | | | | | | | | | | | | | | | | | | |
| *Issued by Transfer.* | | | | | | | | | | | | | | | | | | | |
| To on - | | | | | | | | | | | | | | | | | | | |
| To on - | | | | | | | | | | | | | | | | | | | |
| TOTAL - | | | | | | | | | | | | | | | | | | | |
| Remaining in Store on 186 - | | | | | | | | | | | | | | | | | | | |

*Verificati*

Certified that we have exa

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ARTILLERY.

*for the Half-year ending* _____

| Cotton Shirts. | Linen Trowsers. | Sponges. | Spurs. | Scissors. | Button Sticks. | Black Neckties. | Towels. | Flannel Shirts. | Flannel Belts. | Oil Tins. | Helmet C[illegible] | Puggries. | Cloth Valise[illegible] | Knapsacks. | Tin Mugs and Covers | | Cakes of Soap. | Cap Covers. | Brush Bags. | Canvas Bags. | Shaving Bags. | Stable Bags. | Purses. | Horse Rubbers. | Trowser Straps. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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NOTE.—If further space is required for additional articles, a slip of paper can be attached hereto.

CERTIFIED

*Dated* _____

(Signed)

_____ *Captain.*

_____ *Captain.*

_____ *Captain.* _____ *Commanding.*

attached to the Pay List for the months of April and October.

F.

*LIST of Regimental Necessaries transferred from the* _____ *to the* _____

| ARTICLES. | Price of each | Number | Total value of each transferred. | REMARKS. |
|---|---|---|---|---|
| | | | | |
| | | Total .. | | |

The above named Stores were forwarded to the _____ on the _____ 186 .

_____ *Commanding.*

CERTIFIED that the foregoing articles of Regimental Necessaries, transferred from the _____, have been received into store in the _____

_____ *Quarter Ma*

*Dated* _____

_____ *Commanding.*

NOTE.—The above List, duly Certified, is to be returned by the Officer Commanding the receiving Regiment or Battery, and is to be attached to the Half-yearly Account of the transferring Regiment or Battery, as a voucher for striking out the Articles.

*The 3rd January* 1865.

*No.* 1 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment :—

Captain J. Angelo, Wing Officer [illegible] Infantry, Officiating Brigade Major [illegible] Brigade Major on the Establishment, [illegible] to Major H. F. Brooke, appointed Assistant [illegible]tant General of Division.

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*No.* 2 *of* 1865.—The following Regimental Order issued to the Calcutta Volunteer Rifle Corps is confirmed :—

*Dated* 29*th December* 1864.—Notifying the following promotion, subject to his passing the prescribed examination in drill :—

*No.* 1 *Company.*—Ensign C. J. Connew to be Lieutenant, vice Lieutenant H. W. Payne, resigned.

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*No.* 3 *of* 1865.—The under-mentioned Officers having completed twenty years' service, six years of which were on permanent Staff employ, to be Majors, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | | |
|---|---|---|
| Captain S. Black | ... | 29th December 1864. |
| „ E. P. Lloyd | ... | Ditto. |
| „ C. H. Hall | ... | Ditto. |
| „ J. C. Millar | ... | Ditto. |

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*No.* 4 *of* 1865.—The under-mentioned Warrant Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Conductor James Lynch, of the Ordnance Commissariat Department, attached to the Office of the Examiner, Ordnance Accounts. | For 20 months. |

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| | |
|---|---|
| *No.* 5 *of* 1865.—Ressaldar Bahadoor Khan Bahadoor of the 2nd Regiment, Sindh Horse, is promoted from the 2nd to the 1st Class of the "Order of British India," with the title of "Sirdar Bahadoor." Subadar Khanday Sing, of the 5th Regiment Bombay Native Light Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor." | From the 18th September 1864, in succession to pensioned Ressaldar Major Shaik Mahomed Sirdar Bahadoor, deceased. |

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*The* [illegible] *January* 1865.

*No.* 6 *of* 1865.—The following order issued by the Resident at Hyderabad is confirmed :—

*No.* 227, *dated* 9*th December* 1864.—Permitting Assistant Surgeon J. T. J. Doyle, 1st Infantry, Hyderabad Contingent, to proceed to Bombay, preparatory to proceeding on medical certificate to Europe.

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*No.* [illegible] *of* 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent Staff employ, to be Major, from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

Captain A. T. Armstrong ... 3rd January 1865.

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*No.* 8 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain Robert Cunliffe Low, of the late 4th European Light Cavalry, 2nd in Command and Squadron Officer, 13th Bengal Cavalry. | For 20 months, under the new Regulations. |

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*The 5th January* 1865.

*No.* 9 *of* 1865.—The services of Lieutenant J. R. McK. Homfray, of the General List, Infantry, Doing-duty Officer, 36th (the Bareilly) Regiment Native Infantry, are placed at the disposal of the Foreign Department.

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*No.* 10 *of* 1865.—His Excellency the Governor General in Council is pleased to attach Lieutenant C. A. Baylay, of the Royal Artillery, to the Hazara Mountain Train Battery, Punjab Irregular Force, to do duty in order to qualify himself for admission to the Staff Corps.

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*No.* 11 *of* 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps, with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Captain Henry Phillpotts, of the late 15th Regiment Native Infantry, Assistant to the Governor General's Agent, Rajpootana. | 17th January 1863. |

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*No.* 12 *of* 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names :—

| | |
|---|---|
| Lieutenant C. W. Campbell, of the General List, Cavalry, Aide-de-Camp to His Excellency the Commander-in-Chief, Fort St. George, on leave for twenty months, Government General Order No. 835 of the 1st November 1864. | "Mooltan," 27th Sept. 1864. From Madras. |

Major R. Ouseley, of the Bengal Staff Corps, on leave for twenty months, Government General Order No. 848 of the [illegible] November [illegible]

Major W. H. Bin[illegible] of the Bengal Staff Corps, on furlough for two years, Government General Order No. 854 of 1st November 1864.

" 4th Nov[illegible] 1864.

Major G. A. F. Houchen, of the Bengal Staff Corps, Executive Engineer, Hill Road Division, Department of Public Works, on leave for twenty months, Government General Order No. 929 of the 21st November 1864.

Captain (Brevet Major) J. Hills, v. c., of the Royal Artillery, Brigade Major to the Inspector of Artillery, Northern Division, on leave for twenty months, Government General Order No. 915 of the 16th November 1864.

Captain R. Stothert, of the late 4th Regiment Native Infantry, on furlough for three years, Government General Order No. 850 of the 21st November 1864.

Assistant Surgeon N. J. Grant, of the Medical Department, in Medical Charge of the 12th Bengal Cavalry, on leave for twenty months, Government General Order No. 929 of the 21st November 1864.

Lieutenant C. L. B. Constable, of the late 17th Regiment Native Infantry, on leave for eighteen months, Government General Order No. 754 of the 15th September 1864.

} "Nemesis," 24th November 1864.

Lieutenant Colonel W. E. Morton, of the Royal Engineers, Chief Engineer and Secretary to Government, Public Works Department, North-Western Provinces, on leave for fifteen months, Government General Order No. 997 of the 8th December 1864.

Lieutenant H. F. Woodcock, of the General List, Assistant District Superintendent of Police, Ajmere, on leave for one year, Government General Order No. 973 of the 2nd December 1864.

} "Candia," 10th December 1864.

Lieutenan[illegible] D. Lockwood, of the Ge[illegible]l List, Cavalry, on leave [illegible] twenty months, Gover[illegible]t General Order N[illegible] of the 6th Decem-

Ass[illegible]on R. H. Perk[illegible] Medical Department [illegible] on furlough for three [illegible]ar[illegible] Government General Order [illegible]o. 907 of the 16th Novem[illegible]r 1864.

Lieutenant T. Lowndes, of the Madras Staff Corps, District Superintendent of Police, British Burmah, on leave for twenty months, Government General Order No. 996 of the 8th December 1864.

} "Candia," 10th December 1864.

Lieutenant Sir G. L. M. Parker, Bart., of the Bengal Staff Corps, Quarter Master, 3rd Goorkha Regiment, on leave for twenty months, Government General Order No. 1042 of the 19th December 1864.

} "Mooltan," 24th December 1864.

Major B. P. Lloyd, of the Bengal Staff Corps, Commissioner, Jhansie Division, on leave for twenty months, Government General Order No. 1018 of the 14th December 1864.

Lieutenant T. R. D. Bingham, of the Bengal Staff Corps, 2nd Squadron Officer, 8th Bengal Cavalry, on leave for eighteen months, Government General Order No. 866 of the 4th November 1864.

Assistant Surgeon J. C. Annesley, of the Medical Department, Civil Assistant Surgeon, Jhansie, on leave for eighteen months, Government General Order No. 1029 of the 15th December 1864.

} "Queen of the South," 27th December 1864.

Major G. Hamilton, of the Bengal Staff Corps, on furlough for two years, Government General Order No. 1050 of the 20th December 1864.

} "Hotspur," 30th December 1864.

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*No.* 13 *of* 1865.—The services of Surgeon S. C. Townsend are placed at the disposal of the Home Department.

*No.* 14 [illegible]65.—In conformity with Government General Order No. 144 of 1852, the following Statement of Deposits made at the Presidency Pay Office, during the month of December 1864, on account of the Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of the Indian Military Forces of Her Majesty, is published for general information; and it is hereby notified that claims to the Estates in question, which shall not be preferred to the Presidency Pay Master by Executors and Administrators before the conclusion of twelve months after the date of decease, cannot be attended to in this country, as the money after that period will be remitted [illegible], and made payable by the Secretary of State for India.

*Statement [illegible] made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of Her Majesty's Indian Military Service, in the month of December* 1864.

| Date of Deposit. | On [illegible]count. | Rank. | Corps. | General Number. | Date of decease. | Testate or Intestate. | Amount of monies accruing from the adjustment of Estates. | Amount of Donation Batta due to Estates. | Total unclaimed amount deposited. | How disposed of. Amount paid in India. | Amount retained in India. | Amount remitted for payment in England. In Co.'s [illegible]pees. | Equivalent in Sterling. | Rate of Exchange. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Commissioned and Warrant Officers.* | | | | | | Rs. A. P. | | Rs. A. P. | Rs. A. P. | | | | |
| 7th Dec. 1864 | (*a*) George Alexander ... | Lieutenant ... | Bengal Staff Corps ... | ... | 16th Dec. 1863 | Intestate | 818 0 0 | ... | 818 0 0 | | | | | |
| 16th „ „ | (*b*) Charles Stewart, M. D. ... | Surgeon ... | 34th Regt. N. I. ... | ... | 6th Aug. 1864 | Ditto | 900 1 10 | ... | 900 1 10 | | | | | |
| 21st „ „ | (*c*) Edgar Gresley Stone ... | Captain ... | 5th Regt. N. L. I. ... | ... | 5th Nov. 1864 | ... | 2,315 10 11 | ... | 2,315 10 11 | | | | | |
| 21st „ „ | (*d*) Geo. Smyth Mann, F. R. C. S. | Depy. Inspr. Genl. of Hospitals. | Bengal Medical Service... | ... | 31st Oct. 1864 | Testate | 5,942 14 3 | ... | 5,942 14 3 | | | | | |
| 22nd „ „ | (*e*) Patrick Mallon ... | Conductor ... | Ordnance Department ... | ... | 24th June 1864 | Intestate | 292 12 6 | .. | 292 12 6 | 292 12 6 | | | | |
| 23rd „ „ | F. E. Farquharson ... | Lieutenant ... | L. L. Horse ... | Not communicated. | | | 1,039 0 0 | ... | 1,069 0 0 | | | | | |
| 30th „ „ | (*f*) Geo. Smyth Mann, F. R. C. S. | Depy. Inspr. Genl. of Hospitals. | Bengal Medical Dept. ... | ... | 31st Oct. 1864 | Testate. | 78 5 0 | ... | 78 5 0 | | | | | |
| 30th „ „ | (*g*) Edgar Gresley Stone ... | Captain ... | 3rd Regt. N. I. ... | .. | 5th Nov. 1864 | Intestate | 253 7 0 | ... | 253 7 0 | | | | | |
| | Carried over ... | ..... | ..... | ... | ..... | ... | 11,670 3 6 | ... | 11,670 3 6 | | | | | |

(*a*) Next of kin, not known.
(*b*) Next of kin, mother.
(*c*) Next of kin, father, E. G. Stone, Esq., Chambers' Court, near Tewkesbury, Gloucestershire.
(*d*) Legatee, widow, Caroline Mann, care of Revd. Thomas Currie, Bridgham Rectory, East Harding, Norfolk.
(*e*) Widow, Maria Mallon; Daughter, Mary Mallon, Lucknow. Paid by Transfer Receipt.
(*f*) Legatee, widow, Caroline Mann, care of Revd. Thomas Currie, Bridgham Rectory, East Harding, Norfolk.
(*g*) Next of kin, father, E. G, Stone, Esq., Chambers' Court, near Tewkesbury, Gloucestershire.

*Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers, &c.,*—continued.

| Date of Deposit. | On whose account. | Rank. | Corps. | General Number. | Date of decease. | Testate or Intestate. | Amount of monies accruing from the adjustment of Estates. | Amount of Donation Batta due to Estates. | Total unclaimed amount deposited. | How disposed. Amount paid in India. | Amount retained in India. | Amount remitted for payment in England. In Co.'s Rupees. | Equivalent in Sterling. | Rate of Exchange. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Rs. A. P. | | Rs. A. P. | Rs. A. P. | | | | |
| | Brought forward ... | ..... | ..... ..... | ... | ..... | ..... | 11,670 3 6 | ... | 11,670 3 6 | | | | | |
| | *Non-Commissioned Officers and Soldiers.* | | | | | | | | | | | | | |
| 7th Dec. 1864 | (a) John Halliday ... ... | Sergeant ... ... | Gun Carriage Agency, Futtehgurh. | ... | 18th June 1864 | Testate | 417 6 2 | ... | 417 6 2 | | | | | |
| 7th " " | (b) Jacob Smith ... | Bugle Major ... | Bengal Artillery ... | 2382 | 4th Nov. 1863 | Intestate | 585 11 3 | ... | 585 11 3 | | | | | |
| 15th " " | (c) William Payne ... | Corporal ... | E. I. Regt. ... | 134 | 16th Oct. 1864 | Testate | 121 12 6 | ... | 121 12 6 | 121 12 6 | | | | |
| | Total ... | ..... | ..... ..... | ... | ..... | ... | 12,795 1 5 | ... | 12,795 1 5 | | | | | |

(a) Next of kin, brother, in Europe.
(b) Next of kin, brother, James Smith, Cawnpore.

(c) Next of kin, brother, Patrick Payne, E. I. Regiment, now discharged [illegible] a Maria Payne, Pensioners' home, Bombay, 15th December 1864, remitt[illegible]

FORT W[illegible]IAM;
PAY OFFICE,
*The 31st December 1864.*

C. F. M. MUNDY, *Lieut. Co[illegible]*
*Presidency Pay Master.*

*No.* 15 *of* 1865.—With referen[illegible] cation issued by the Government o[illegible] the 24th ultimo, the services of S[illegible] Archer, M. D., Civil Surgeon of D[illegible] own request, placed at the dispos[illegible] lency the Commander-in-Chief.

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*The 6th January* 1[illegible]

*No.* 16 *of* 1865.—The followi[illegible] a Military letter from the Right Hon'ble the Secretary of State for India, No. 362 of the 23rd November 1864, are published for general information :—

1. The under-mentioned Officers and Warrant Officers have been permitted to return to their duty, viz. :—

Major P. C. Darnell.
" E. S. Denniss.
" A. H. Ternan.
" J. J. Eckford.
" R. R. Adams.

Captain C. R. Shaw.
" Hon'ble J. H. Fraser, viâ Bombay.
" W. Paske.
" C. E. Mills, per Steamer of 4th Dec.
" W. Irwin.
" F. R. N. Fortescue.

Lieutenant L. Conway Gordon.
" M. P. Moriarty, viâ Bombay.
" E. A. Vine.
" R. G. Birch.
" D. T. H. Sampson, viâ Bombay.
" W. G. Maitland.
" H. C. E. Ward.
" C. E. Bates.
" H. R. B. Worsley.
" F. P. Spragge.

Surgeon J. C. Bow.
Assistant Surg. W. Watson.
Veterinary " J. Field, per Steamer of 3rd Dec.
Conductor W. Wilkinson.
Sub-Conductor R. Busher.

2. The under-mentioned Officers have been granted extensions of leave for the periods specified :—

Captain E. Thompson, 3 months.
" J. C. Bonamy, 6 months.
" A. P. Mew, 4 months.

Lieutenant D. Pringle, 6 months.
" M. A. D. Orchard, 6 months.
" A. D. Jennings, 6 months.
" H. C. Sitwell, 4 months.

[illegible] practice has ceased in the old Royal Artillery.

MILITARY. INDIA OFFICE;

No. 364. *London, 23rd November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have to inform you that Her Majesty has been pleased to approve of the under-mentioned Officers being placed on the Staff of the Army serving in the East Indies, with the local rank of Major General, viz. :—

Lieutenant Colonel and Brevet Colonel F. P. Haines, C. B., H. P., with a view to his succeeding Major General the Hon'ble A. A. Spencer, C. B., from the 27th March 1865.

Lieutenant Colonel and Brevet Colonel William O'Grady Haly, C. B., 38th Foot, with a view to his succeeding Major General A. A. T. Cunynghame, C. B., from the 27th March 1865.

I have, &c.,

(Signed) C. WOOD.

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*No.* 18 *of* 1865.—With reference to Government General Order No. 222 of the 15th March 1864, the following Military letter from the Right Hon'ble the Secretary of State for India, No. 375, dated 25th November 1864, is published for general information :—

MILITARY. INDIA OFFICE;

No. 375. *London, 25th November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—With reference to my Despatch of 30th January last, No. 26, I have to inform you that [illegible]n recently received from the [illegible]ave been informed that as the [illegible]ernumerary Colonels and Lieu[illegible]n the old Royal Artillery was [illegible]n addition being made to the [illegible] Full Pay, which was not, how[illegible] in the Estimates for 1864-65, [illegible]ers have been absorbed, except [illegible]orm a new Brigade, His Royal [illegible]ld Marshal Commanding, in [illegible]y proposed that in the new [illegible]fficers shall be placed on the [illegible]ist as heretofore, until such a

Provinces.

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*No.* 20 *of* 1865.—The under-mentioned Soldiers of Her Majesty's services are permitted to reside and draw their pay in India as Out-Pensioners of Chelsea Hospital, according to the 23rd Clause of the Royal Warrant of the 1st July 1848, pending a reference to the Home Authorities as to the amount of their pensions :—

Gunner James Brown, of the B. Battery, 9th Brigade Royal Artillery.

Private George M. Reeves, of Her Majesty's 98th Foot.

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*No.* 21 *of* 1865.—The under-mentioned Officer has reported his return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Assistant Surgeon B. W. Switzer, F. R. C. S., of the Medical Department. | 1st January 1865. |

—His Excellency the Viceroy ral in Council has great satisfac- g to the Army that he has re- ity of the Right Hon'ble the for India to declare that the force with respect to the grant of s at the Full or Half Batta rates that from the 1st January 1865 Commissioned Officers, and men egimental pay and allowances, d, will draw such allowances at the Full Batta rate.

2. The above order in no way affects existing rules in regard to the rates of pay drawn by Officers of the Staff Corps, or by Officers holding Staff appointments.

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*No.* 23 *of* 1864.—The adoption of the Hospital Diet Scales for the Bengal Presidency, laid down in G. G. O. No. 972 of the 30th October 1862, having been attended with very satisfactory results, His Excellency the Governor General in Council is pleased to direct that they be permanently adopted, with certain minor modifications which experience has shown to be necessary.

The Diet Scales as finally revised are accordingly published below for general information and guidance.

TABLE OF DIETS FOR — Form No. ROPEAN TROOPS.

*Month of*

Articles comprising of day.

AVO GHT.

| Spoon. | Tea. | Beef Tea. | Low Milk. |
|---|---|---|---|
| Sago ... 2 oz.<br>Tea ... ½ oz.<br>Sugar ... 2¼ oz.<br>Milk ... 6 oz.<br>Rice 2 oz. ... } For conjie water.<br>Salt 2 drs. ... } | Bread ... 8 oz.<br>Tea ... ¾ oz.<br>Sugar ... 2¼ oz.<br>Milk ... 9 oz.<br>Rice 2 oz. ... } For conjie water.<br>Salt 2 drs. ... }<br>Arrowroot ... 4 oz. | Bread ... 1 lb.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk ... 6 oz.<br>Beef .. *12 oz.<br>Salt ... 6 drs.<br><br>*The quantity of meat is to be exclusive of bone; when bone is taken with the meat, ¼ more in weight to be allowed. | Arrowroot ... 3 oz.<br>Milk ... 1½ pt.<br>with 6 oz. for Tea.<br>Sugar ... 3 oz.<br>including ¾ oz. for Tea.<br>Tea ... ½ oz.<br>Sago may be used in lieu of Arrowroot in the proportion of 2 oz. Sago to 1 of Arrowroot.<br>Chicken ... 8 oz.<br>Bread ... 4 oz. |
| **Milk.** | **Chicken.** | **Low with Pudding.** | **Low.** |
| Bread ... 12 oz.<br>Rice ... 3 oz.<br>including 1 oz. for conjie water.<br>Milk ... 2 pts.<br>and 6 oz. for Tea.<br>Butter ... ½ oz.<br>Sugar ... 2¼ oz.<br>including ¾ oz. for Tea.<br>Tea ... ½ oz.<br>Salt ... 2 drs.<br>Soojee ... 4 oz.<br>In lieu of rice at the discretion of the Medical Officer. | Fowl made into Soup or broiled 8 oz.<br>Bread ... 12 oz.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk ... 6 oz.<br>Butter ... 1 oz.<br>Salt ... 6 drs.<br>Barley ... ½ oz.<br>Flour ... ½ oz.<br>Onions ... 1 oz.<br>Milk ... 1 pt.<br>Sugar ... 1 oz.<br>Eggs ... 2<br>for Custard Pudding.<br><br>Or "Chicken Broiled."<br>The same as above, with the addition of Butter 1 oz. and the omission of the Barley, Flour, and Onions. | Mutton in Broth 8 oz.<br>Bread ... 12 oz.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk ... 6 oz.<br>Butter ... ½ oz.<br>Onions ... 1 oz.<br>Barley ... ½ oz.<br>Flour ... ½ oz.<br>Salt ... 6 drs.<br><br>Rice ... 2 oz.<br>Milk ... ¾ pt.<br>Sugar ... ¾ oz.<br>Eggs ... 2<br>for Rice Pudding. | Mutton in Broth 8 oz.<br>Bread ... 1 lb.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk ... 6 oz.<br>Butter ... 1 oz.<br>Onions ... 1 oz.<br>Barley ... ½ oz.<br>Flour ... ½ oz.<br>Salt ... 5 drs. |
| **Half.** | **Fish.** | **Full.** | |
| Mutton ... 10 oz.<br>Bread ... 1 lb.<br>Potatoes ... 8 oz.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk [illegible]<br>Butter [illegible]<br>Onions [illegible]<br>Barley [illegible]<br>Flour [illegible]<br>Salt [illegible]<br><br>*Or half-grilled or [illegible]<br>The same as above [illegible]<br>addition of Butter 1 [illegible]<br>Barley, Flour, and [illegible] | Fish ... *8 oz.<br>Bread ... 1 lb.<br>Potatoes ... 8 oz.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk ... 6 oz.<br>Butter ... 2 oz.<br>Salt ... 6 drs.<br><br>The quantity of Fish is to be exclusive of the head and backbone; when the latter is taken, [illegible] oz. more in weight to be allowed. | Meat, either Beef or Mutton ... 12 oz.<br>See Note in Beef Tea.<br>Bread ... 1 lb.<br>Potatoes ... 12 oz.<br>Tea ... ½ oz.<br>Sugar ... 1½ oz.<br>Milk .. 6 oz.<br>Butter ... 1 oz.<br>Onions ... 1 oz.<br>Barley ... ½ oz.<br>Flour ... ½ oz.<br>Salt ... 6 drs.<br><br>N.B.—In this Diet the Meat may be roasted, fried, or grilled, in place of being boiled. In such cases the Diet to be marked "Full varied," and Butter or Ghee 1 oz. to be allowed, in lieu of Flour, Barley, and Onions. | |

| Spoon. | | Tea. | | Beef Tea. | | Low Milk. | |
|---|---|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | | 1 pt. | Tea | 1 pt. |
| Sugar | ¾ oz. | Bread | 3 oz. | | 4 oz. | Arrowroot in Jelly | 1 oz. |
| Milk | 3 oz. | Sugar | ¾ oz. | | ¾ oz. | Sugar | ¾ oz. |
| | | Milk | 3 oz. | | 3 oz. | Milk | ½ pt. |

| Milk. | | Chicken. | | Low with Pudding. | | Low. | |
|---|---|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. |
| Milk | 1 pt. | Bread | 2 oz. | Bread | 3 oz. | Bread | 4 oz. |
| Bread | 4 oz. | Butter | ¼ oz. | Butter | ¼ oz. | Butter | ½ oz. |
| Sugar | ¾ oz. | | | | | | |

| Half. | | Fish. | | Full. | |
|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. |
| Bread | 6 oz. | Bread | 6 oz. | Bread | 6 oz. |
| Butter | ½ oz. | Butter | ½ oz. | Butter | ½ oz. |

## DINNER.

| Spoon. | | Tea. | | Beef Tea. | | Low Milk. | |
|---|---|---|---|---|---|---|---|
| Sago, in Jelly | 2 oz. | Tea | 1 pt. | Beef Tea | 12 oz. | Arrowroot in Jelly | 1 oz. |
| Sugar | ¾ oz. | Bread | 3 oz. | Bread | 8 oz. | Sugar | 1½ oz. |
| | | Sugar | ¾ oz. | | | Milk | ½ pt. |
| | | Milk | 3 oz. | | | Chicken | 8 oz. |
| | | Arrowroot | 4 oz. | | | Bread | 4 oz. |

| Milk. | | Chicken. | | Low with Pudding. | | Low. | |
|---|---|---|---|---|---|---|---|
| Rice | 2 oz. } In | Chicken | 8 oz. | Mutton Broth | 1 pt. | Mutton Broth | 1 pt. |
| Milk | 1 pt. } Rice | Bread | 8 oz. | Bread | 6 oz. | Bread | 8 oz. |
| Sugar | ¾ oz. } Milk. | Custard Pudding. | | Rice Pudding. | | | |
| Bread | 4 oz. | | | | | | |
| Soojee in lieu of Rice. | 4 oz. | | | | | | |

| Half. | | Fish. | | Full. | |
|---|---|---|---|---|---|
| Mutton in Broth | 1 pt. | Fish | 8 oz. | Broth or Soup | 1 pt. |
| Meat, roasted or fried | 10 oz. | Bread | 4 oz. | Meat | 12 oz. |
| Bread | 4 oz. | Potatoes | 8 oz. | Bread | 4 oz. |
| Potatoes | 8 oz. | Butter | 1 oz. | Potatoes | 12 oz. |

## SUPPER.

| Spoon. | | Tea. | | Beef Tea. | | Low Milk. | |
|---|---|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. |
| Sugar | ¾ oz. | Bread | 2 oz. | Bread | 4 oz. | Arrowroot | 1 oz. |
| Milk | 3 oz. | Sugar | ¾ oz. | Sugar | ¾ oz. | Sugar | ¾ oz. |
| | | Milk | 3 oz. | Milk | 3 oz. | Milk | ½ pt. |

| Milk. | | Chicken. | | Low with Pudding. | |
|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. |
| Bread | 4 oz. | Bread | 2 oz. | Bread | 3 oz. |
| Butter | ½ oz. | Butter | ¼ oz. | Butter | ¼ oz. |

| Half. | | Fish. | | Full. | |
|---|---|---|---|---|---|
| Tea | 1 pt. | Tea | 1 pt. | Tea | 1 pt. |
| Bread | 6 oz. | Bread | 6 oz. | Bread | 6 oz. |
| Butter | ½ oz. | Butter | ½ oz. | Butter | ½ oz. |

## Form No. 1.

*Month of* _____ 18[illegible]

*Diet Sheet of*

| Regiment. | Regimental Number. | Company. | Rank. | Disease. |
|---|---|---|---|---|
| | | | | |

Admitted into Hospital
the _____
Age _____

Discharged from Hospital
the _____
Religion _____

| Date. | Diet. | Extras. | | | | | | | | | | Initial of Surgeon. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | | | | | |
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| 25 | | | | | | | | | | | | |
| 26 | | | | | | | | | | | | |
| 27 | | | | | | | | | | | | |

Diets [illegible] to be filled in daily by the prescribing Surgeon.

*N. B.* [illegible] tity of Wine to be [illegible]tered in words as well as figures.

## Form No. 2.

*Diet Roll of* *Hospital at* *from* 1*st* *to* 31*st* 18

| Regiment. | Regimental No. | Rank and Name. | Age. | Disease. | Admitd. | Discharged. | Died. | Folio of Regiment. | Date 1st. | | Date 2nd. | | Date 3rd. | | Date 4th. | | Date 5th. | | Date 6th. | | Date 7th. | | Date 8th. | | Date 9th. | | Date 10th. | | Date 11th. | | Date 12th. | | &c., &c. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Diet. | Extras. | Diet. | Extra. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | Diet. | Extras. | &c. | &c. |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

The Extras are W[illegible] alt Liquor. In ordering these the Medical Officer will mark W. B. or M; the figures before the two former letters will represent ounces, thus (2 W, 1 B) the figures before the letter M will re[illegible] ms (1 M).

The Diets to be mark[illegible] ir initial letters, thus T for Tea Diet, H for Half Diet. Fh. for Fish Diet.

**Form No. 3.**

OR THE STEWARD.

*Dail[illegible] [illegible]arious Wards in Hospital, dated*

| Wards. | Diets. | | | | | | | | | | | Drinks. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Spoon. | Tea. | Beef Tea. | Low Milk. | Milk. | Chicken. | Low with Pudding. | Low. | Half. | Fish. | Full. | Barley Water. | Rice Water. | Lemonade. |
| | | | | | | | | | | | | Pints. | Pints. | Pints. |
| Total ... | | | | | | | | | | | | | | |

This is to be prepared by the Apothecary from the Surgeon's Diary or Bed Head Ticket.

FOR THE STEWARD.

*Daily Abstract of Liquors for the various Wards in Hospital, dated*

| Wards. | Wines. | Spirits. | Malt. | |
|---|---|---|---|---|
| | oz. | oz. | Pints. | |
| Total ... | | | | |

This is to be prepared by the Apothecary from the Surgeon's [illegible]y or Bed Head Ticket.

K

*No.* 24 *of* 1865.—The following paragraphs of a Military letter from the Right Hon'ble the Secretary of State for India, No. 344 of the 7th November last, are published for general information:—

In reply to your letter* dated 19th September last, which submits for my decision a question which has been mooted, whether the provisions of the General Order by your Government, dated 1st August 1863, No. 494, should apply to appointments with Native Regiments, I have to inform you that I agree with the Commander-in-Chief and your Government that the provisions of that Order would not be appropriate to Regimental appointments.

* No. 322.

2. That Order declared that henceforth no Officer acting in an appointment should receive more than one-half the staff salary attached thereto, until he should have acted six months in it. I am of opinion with you that when there is a full vacancy in the Command or other appointments in a Native Regiment, or an acting vacancy in which the whole staff salary is available, the acting incumbent should receive full pay.

3. This interpretation is, of course, subject to the condition referred to in the 5th paragraph of your letter under reply, that under no circumstances shall the Government have to pay more than the authorized salary of any appointment, whether drawn by one Officer or divided between two; and that no Officer acting in an appointment shall draw more than the full salary belonging to it.

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*No.* 25 *of* 1865.—The following promotions by Brevet are made under the operation of Government General Order No. 632 of 4th August 1864, subject to Her Majesty's approval:—

*Brevet.*

| Corps. | Rank and Name. | Date from which entitled to promotion to rank of Major. |
|---|---|---|
| | *To be Majors.* | |
| Staff Corps ... | Capt. Benjamin Parrott (Major in the Staff Corps) ... | 18th Feb. 1861. |
| 4th Eur. Regt. | Capt. George Augustus Cuyler | 29th Dec. 1864. |
| 31st N. I. ... | " Arthur Ellis ... | 29th Dec. 1864. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 1.

*Fort William, the* 3*rd January* 1865.

*Erratum.*—In the portion of Public Works Department Notification No. 361 of the 19th instant, relating to Mr. C. Nuttall, for the words "temporary rank of 3rd class," read *temporary rank of 2nd class.*

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No. 2.

*Notifications.*—Mr. H. Rigg, Probationary Assistant Engineer, Mysore, is promoted to the grade of Assistant Engineer, 2nd class, with effect from the 25th F[illegible]ary 1864. This cancels Notification No. 2[illegible] of the 6th October 1864.

---

No. 3.

*4th January* 1865.

The under-mentioned Probationary Assistant [illegible] attached to the Public Works Deparment, [illegible] inces, are promoted to the grade of Assistant [illegible]rseer from the dates specified:—

Sergeant A. Buchanan, from the 31st August 1864.

Private J. Jennings, from the 31st August 1863.

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No. 4.

The under-mentioned Officers and subordinates of the Bombay Presidency, employed in the Rajpootana Circle of Public Works, are brought on the strength of the Public Works Establishments under the Government of India in the grades specified.

*Executive Engineer, 2nd Class.*

Lieutenant Colonel A. Cowper, Executive Engineer, Mhow Division, Agra and Bombay Road.

*Executive Engineer, 3rd Class.*

Captain J. Hills, Executive Engineer, 3rd Division Mhow and Nusseerabad Road.

Lieutenant E. P. Gambier, Executive Engineer, Neemuch and Nusseerabad Division.

*Probationary Assistant Engineer.*

Captain A. S. Griffith, Neemuch and Nusseerabad Division.

*Supervisor, 1st Grade.*

Conductor G. Cowper, 3rd Division Mhow and Nusseerabad Road.

*Supervisor, 2nd Grade.*

Sergeant H. B. Jackson, Neemuch and Nusseerabad Division.

*Overseer, 1st Grade.*

Ragho Ram Chunder, 3rd Division Mhow and Nusseerabad Road.

*Overseer, 2nd Grade.*

Gunnesh Gopal, 3rd Division Mhow and Nusseerabad Road.

Eknath Ramchunder, 3rd Division Mhow and Nusseerabad Road.

*Overseer, 3rd Grade.*

Corporal J. Thomas, 3rd Division Mhow and Nusseerabad Road.

---

No. [illegible]

Mr. W. C. Wright, Prob[illegible] Engineer, Oudh, has been pos[illegible] division with effect from the 2[illegible]

Baboo Kedar Nath [illegible], Pr[illegible] Engineer, Oudh, has [illegible] Lucknow to the Seetapo[illegible] which he joined on the 14th Decembe[illegible]

---

No. [illegible]

*The 5th Januar[illegible]*

The under-mentioned Pro[illegible] Assistant Engineers are promoted to the [illegible] 2nd class

Assistant Engineer, with effec[illegible]
January 1864 :—

Mr. H. Bell.
„ F. L. O'Colloghan
„ R. H. Rhind.

REVENUE—FORE[illegible]

No. 1.

*The 2nd January* [illegible]

Mr. A. M. Peché, in charg[illegible] timber revenue station, British Burmah, is removed from the service of Government from the 19th August 1864.

No. 2.

The Governor General in Council is pleased to appoint Mr. M. Slym to be an Assistant Conservator of Forests in British Burmah on probation, from the date of taking charge.

No. 3.

*The 4th January* 1865.

The Governor General in Council is pleased to appoint Lieutenant H. A. C. Plowden, Her Majesty's 51st Native Infanty, to officiate as an Assistant Conservator of Forests in the Central Provinces, with effect from the date of joining.

E. C. S. WILLIAMS, *Captain*, R. E.
*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTICE.

The interest and responsibility in our Firm of Mr. John Lyall and Mr. John Rennie ceased on 31st December 1862.

CALCUTTA, *The 31st December* 1864. } LYALL RENNIE & Co.

CALCUTTA, *5th January* 1865. }

### FOR SALE,

A COLLECTION of TREATIES, ENGAGEMENTS, and SUNNUDS, relating to India and neighbouring countries, compiled by C. U. Aitchison, B. C. S., Under-Secretary to the Government of India in the Foreign Department. Price, Five Rupees per volume.

VOLUME I.—Containing the Treaties, &c., relating to Bengal, Burmah, and the Eastern Archipelago. Super royal, 8vo. pp. 372, with three Maps.

VOLUME II.—Containing the Treaties, &c., relating to the North-Western Provinces, Oudh, Nepal, the Punjab, and the States on the Punjab Frontier. Super royal, 8vo. pp. 456, with two Maps.

VOLUME III.—Containing the Treaties, &c., relating to the Peishwa, Nagpoor, and Bundlecund. Super royal, 8vo. pp. 588.

VOLUME IV.—Containing Treaties, &c., relating to the States in Rajpootana, Central India, and Malwa.

VOLUME V.—Containing Treaties, &c., relating to Hyderabad, Mysore, and Coorg, the Madras Presidency, and Ceylon.

*Just published.*

VOLUME VI.—Containing Treaties, &c., relating to the States within the Bombay Presidency.

[redacted] lcutta University.

[redacted] Arts :—

| | | | |
|---|---|---|---|
| 4 | Beroja Prosaud Bose | ... | Berhampore College. |
| 5 | Jogendro Nath Bose | ... | Ditto. |
| 6 | Shurrut Chunder Banerjee, No. 1 | ... | Presidency College. |
| 7 | Ram Churn Mitter | ... | Ditto. |
| 8 | Promoda Churn Banerjee | ... | Ditto. |
| 9 | J. P. Obeyesekere | ... | Queen's College, Colombo. |
| 10 | Boycunto Nath Roy | ... | Dacca College. |
| 11 | Tarra Prosaud Roy | ... | Hooghly College. |
| 12 | Ameer Ali | ... | Ditto. |
| | Protab Chunder Mozumdar | ... | Presidency College. |
| 14 | Nundo Lall Chatterjee | ... | Hooghly College. |
| 15 | Baney Madub Dutt | .. | Presidency College. |
| 16 | Onookool Chunder Chatterjee | ... | Calcutta Free Church Institution. |

SECOND DIVISION.

*In Alphabetical Order.*

| | | | |
|---|---|---|---|
| | Abdoolah Fyaz | ... | Calcutta Free Church Institution. |
| | Amarendro Nauth Chatterjea | ... | Presidency College. |
| | Amrita Lal De | ... | Calcutta Free Church Institution. |
| | Aukhoy Chunder Chowdry | ... | Presidency College. |
| | Aushootosh Auddy | ... | Hooghly College. |
| | Banka Behary Gupta | ... | Presidency College. |
| | Beereshur Halder | ... | Ditto. |
| | Bepin Behary Dutt | ... | Hooghly College. |
| | Bhola Nauth Roy | ... | Queen's College, Benares. |
| 10 | Bhoobun Mohun Mookerjea | ... | Calcutta Free Church Institution. |
| | Bipprodoss Chatterjea | ... | Serampore College. |
| | Bonomali Ghose | ... | Calcutta Free Church Institution. |
| | Boodh Sen Singh | ... | Presidency College. |
| | Bunko Behary Mitter | ... | Kishnaghur College. |
| | Cally Nauth Chatterjea | ... | Dacca College. |
| | Chunder Kanth Ghose | ... | Ditto. |
| | Coonjo Behary Chuckerbutty | ... | Teacher. |
| | Dal Chund | ... | Bareilly College. |
| | D'Cruz, J. A. | ... | Doveton College. |
| 20 | Debendro Laul Shome | ... | Hooghly College. |
| | Deno Bundhu Sen | ... | Dacca College. |
| | Deno Nauth Banerjea | ... | Presidency College. |
| | Deno Nauth Dhur | ... | Teacher. |
| | DeRhi Philipe, G. W. | ... | Doveton College. |
| | Dhonesh Chunder Roy | ... | Civil Engineering [illegible] |
| | Dissent, A. | .. | Doveton College. |
| | Doorga Coomar Bose | ... | Dacca College. |
| | Doyal Chunder Shome | ... | Medical College. |
| | Dwarka Nauth Bhuttacharjea | ... | Patna College. |
| 30 | Dwarka Nauth Chuckerbutty | ... | Dacca College. |
| | Fuzlul Baree | ... | Teacher. |
| | Gobind Chunder Bysack | ... | Dacca College. |
| | Gobind Chunder Ghose | ... | Presidency College |
| | Gobind Chunder Rockhita | ... | Calcutta Free Chu |
| | Gonesh Chunder Ghose | ... | Ditto. |
| | Goopee Mohun Mookerjea | ... | Presidency College |
| | Gopal Chunder Mookerjea, No. 2 | ... | Ditto. |
| | Gopal Loll Seal | ... | Ditto. |
| | Gora Chand Das | ... | Calcutta Free Chu |
| 40 | Grish Chunder Chatterjea | ... | Ditto. |
| | Grish Chunder Roya | ... | Ditto. |
| | Hari Krishna Chatterjee | ... | Sanscrit College. |
| | Harish Chundra Bhuttacharjee | ... | Ditto. |
| | Hem Chundra Koondoo | ... | Calcutta Free Chu |
| | Hurrish Chunder Bagchee | ... | Teacher. |

| | | |
|---|---|---|
| | Hurry Bullub Bose | ... Presidency College. |
| | Hurry Bullub Moitry | ... Kishnaghur College. |
| | Ishwar Chunder Khasnovish | ... Dacca College. |
| | Janoky Nauth Pawray | ... Berhampore College. |
| 50 | Jodoo Nauth Bhuttacharjee | ... Kishnaghur College. |
| | Jodoo Nauth Doss | ... Calcutta Free Church Institution. |
| | Jodoo Nauth Mitter | ... Ditto. |
| | Jodoo Nauth Mookerjea | ... Kishnaghur College. |
| | Jogendro Nauth Bose | ... Presidency College. |
| | Jogesh Chunder Mitter | ... Ditto. |
| | Joygopal Singha | ... Calcutta Free Churh Institution. |
| | Juggobundhu Bhudro | ... Dacca College. |
| | Juggobundhu Gangooly | ... Presidency College. |
| | Kally Churn, 2nd | ... Bareilly College. |
| 60 | Kally Sodoy Gangooly | ... Calcutta Free Church Institution. |
| | Kally Sunker Gooho | ... Ditto. |
| | Kartic Chunder Paul | ... Hooghly College. |
| | Kedareshur Dutt | ... Patna College. |
| | Kedar Nauth Chatterjea | ... Presidency College. |
| | Kedar Nauth Doss | ... Hooghly College. |
| | Kedar Nauth Ghose | ... Presidency College. |
| | Kedar Nauth Ghose | ... Kishnaghur College. |
| | Khetter Mohun Bose | ... Presidency College. |
| | Kirkpatric, C. | ... Doveton College. |
| 70 | Kissory Laul Chowdhry | ... Presidency College. |
| | Koralee Churn Sircar | ... Hooghly College. |
| | Kristo Doss Dey | ... Calcutta Free Church Institution. |
| | Mahendro Narain Banerjea | ... Ditto. |
| | Mohammed Yusoof | ... Patna College. |
| | Mohendro Nath Bose | ... Serampore College. |
| | Mohendro Nauth Mitter | ... Presidency College. |
| | Mohesh Chunder Sircar | ... Ditto. |
| | Mohim Chunder Chatterjea | ... Dacca College. |
| | Mutty Laul Holdar | ... Hooghly College. |
| 80 | Mutty Laul Roy Chowdry | ... Presidency College. |
| | Nemy Chunder Bose | ... Ditto. |
| | Netie Doss Dey | ... Ditto. |
| | Nilmadub Banerjea | ... Teacher. |
| | Nuffer Chunder Chatterjea | ... Hooghly College. |
| | Nursing Paul | ... Ditto. |
| | Obayd-al-Ruhman | ... Berhampore College. |
| | Okhoy Chunder Sircar | ... Hooghlv College. |
| | Oma Churn Ghose | ... Presidency College. |
| | Omesh Chunder Dutt | ... Teacher. |
| 90 | Omesh Chunder Sen | ... Kishnaghur College. |
| | Opendro Chunder Mitter | ... Presidency College. |
| | Panchcowry Banerjea | ... Calcutta Free Church Institution |
| | Peetambur Chatterjea | ... Hooghly College. |
| | Poorno Chunder Banerjea | ... Queen's College, Benares. |
| | Poorno Chunder Mitter | .. Presidency College. |
| | Prosonno Coomar Gangooly | ... Ditto. |
| | Prosonno Coomar Roy | ... Ditto. |
| | Radharomun Gupta | ... Sanscrit College. |
| | Raj Chunder Roy | ... Dacca College. |
| 100 | Rajkisto Gupto | ... Presidency College. |
| | Rajkrishna Ghose | ... Hooghly College. |
| | Rajmohun Dey | ... Dacca College. |
| | Ram Gopal D[illegible] | ... Berhampore College. |
| | Ram[illegible] | ... Presidency College. |
| | Ra[illegible] | ... Queen's College, Benares. |
| | Rh[illegible]erbutty | ... Hooghly College. |
| | R[illegible] | ... Ditto. |
| | [illegible]hoory[illegible] | ... Berhampore College. |
| | Russ[illegible] | ... Hooghly College. |
| 110 | Sati Na[illegible] | ... Presidency College. |
| | Saugor Ch[illegible]kerbutty | ... Kishnaghur College. |
| | Saut Cowr[illegible] | ... Civil Engineering College. |
| | Serajul Is[illegible] | ... Dacca College. |
| | Sham Chu[illegible] | ... Hooghly College. |
| | Sham Loll [illegible] | ... Calcutta Free Church Institution. |
| | Sham Loll [illegible] | ... Ditto. |
| | Shama Chu[illegible]erjea | ... Medical College. |
| | Shama Ch[illegible]oomdar | ... Berhampore College. |

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| | Sheo Sunkur Sahai | ... Patna College. |
| 120 | Shib Chunder Boidic | ... Calcutta Free Church Institution. |
| | Shib Chunder Naug | ... Dacca College. |
| | Sh[illegible]odangsh[illegible]hoosun [illegible] | ... Presid[illegible] College. |
| | Shoshee Bh[illegible]sun Banerjea | ... Calcutta [illegible]ee Church Institution. |
| | Shoshee Bhoosun Sen | ... Dacca C[illegible] |
| | Shyama Churn Chakrabarti | ... Calcutt[illegible] Church Institution. |
| | Siddessur Banerjea | ... Hooghly [illegible]ege. |
| | Sochee Coomar Bose | ... Preside[illegible]cy College. |
| | Soorunjun Paul | ... Calcut[illegible]ree Church Institution. |
| | Sreekristo Mookerjea | ... Hoogh[illegible] College. |
| 130 | Surdharee Lall | ... Presidency College. |
| | Tara Prosonno Banerjea | ... Ditto. |
| | Trolockya Nauth Bose | ... Calcutta Free Church Institution. |
| | Umesh Chunder Mitter | ... Ditto. |
| | Unnoda Prosad Banerjea | ... Ditto. |
| 135 | Woopender Chunder Bose | ... Ditto. |

The undermentioned Students have passed the Entrance Examination :—

FIRST DIVISION.

*In Alphabetical Order.*

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| | Adhar Sing Gour | ... Private Student. |
| | Adityaram Bhuttacharjea | ... Queen's College, Benares. |
| | Aubinash Chunder Bhuttacharjee | ... Calcutta Free Church Institution. |
| | Aubinash Chunder Mookerjea | ... Colootollah Branch School. |
| | Aukhoy Coomar Mookerjea | ... Bullagur Aided School. |
| | Aushootosh Roy | ... L. M. S. Institution, Bhowanipore. |
| | Bama Churn Bose | ... Hooghly Collegiate School. |
| | Baneymadub Doss | ... Colootollah Branch School. |
| | Beereshur Chatterjee | ... Sanscrit College. |
| 10 | Behary Laul Banerjea | ... Santipore Aided School. |
| | Behary Laul Gupta | ... Colootollah Branch School. |
| | Bepin Behary Bose | ... Hooghly Branch School. |
| | Bhuggobutty Churn Gangooly | ... Bally Seminary. |
| | Blochmann, J. | ... Doveton College. |
| | Brindabun Chunder Ghose | ... Seal's Free College. |
| | Brojendro Coomar Gooho | ... Tagoria Aided School. |
| | Brojendro Mohun Doss | ... Dacca Collegiate School. |
| | Brojo Gopal Muttylaul | ... Hindu School. |
| | Bykunt Nath Mookerjea | ... Kishnaghur Collegiate School. |
| 20 | Cally Prosonno Moulic | ... Burrisaul School. |
| | Chunder Canto Pyne | ... Kishnaghur Collegiate School. |
| | Chunder Shekor Sircar | ... Calcutta Free Church Institution. |
| | Chundra Kissore Dey | ... Mymensingh School. |
| | Degumbur Moitry | ... Sham Bazar Preparatory School. |
| | Dhurronee Dhur Dey | ... Colootollah Branch School. |
| | Dissent, H. | ... Doveton College. |
| | Doorgaram Bose | ... Colootollah Branch School. |
| | Eshur Pershaud | ... Lahore Mission School. |
| | Forbes, E. A. | ... Doveton College. |
| 30 | Gobindo Chunder Mohapatro | ... General Assembyl's Institution. |
| | Goberdhone Doss | ... Queen's College, Benares. |
| | Gokul Chand | ... Teacher. |
| | Goluck Nauth Dhur | ... Mymensingh School. |
| | Gomez, Domingo | ... Teacher. |
| | Gopaul Chunder Ghose | ... Colootollah Branch S[illegible] |
| | Gopaul Chunder Roy | ... Hooghly Collegiate S[illegible] |
| | Gossi Krishn | ... Patna College. |
| | Grish Chunder Bhor | ... Calcutta Training Acad[illegible] |
| | Grish Chunder Singh | ... Hindu School. |
| 40 | Gunga Pershaud | ... St. John's Colleg[illegible]a |
| | Haran Chunder Banerjea | ... Colootollah Branch [illegible] |
| | Herumbo Chunder Chuckerbutty | ... Barrackpore School. |
| | Hidayet Ullah | ... St. Stephen's College, [illegible] |
| | Hill, E. C. | ... [illegible]ton Colleg[illegible] |
| | Hurdial Singh | ... [illegible]ophen's College, [illegible] |
| | Hurry Prosaud Doss | ... Bu[illegible]aul School. |
| | Ishwar Chunder Bhuttacharjea | ... Dacca Collegiate School. |
| | Jadubendro Nauth Roy Chowdry | ... Cossipore Aided School |
| | Jogendro Chunder Bose | ... Hindu School. |

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| 50 | Jogendro Nauth Mookerjea | ... Seal's Free College. |
| | Jogendro Nauth Sircar | ... Colootollah Branch School. |
| | Johore Laul Nundy | ... Hooghly Branch School. |
| | Joygopaul Banerjea | ... Chinsurah Free Church Institution. |
| | Jwala Pershaud | ... Agra College. |
| | Kally Coomar Bose | ... Berhampore Collegiate School. |
| | Kally Coomar Chuckerbutty | ... Chittagong School. |
| | Kally Kissen Ghosal | ... Ooterparah School. |
| | Kally Mohun Surmah | ... Pogose School. |
| | Kapoor Singh | ... Agra College. |
| 60 | Kartic Chunder Mitter | ... Midnapore School. |
| | Kashi Nath | ... Victoria College. |
| | Kedar Nauth Buckshee | ... Paikparah School. |
| | Kedar Nauth Chatterjea | ... Hindu School. |
| | Kedar Nauth Roy | ... Noral Aided School. |
| | Kedar Nauth Sircar | ... Colootollah Branch School. |
| | Kheroda Coomar Sing | ... Ditto. |
| | Kishory Mohun Banerjea | ... Ditto. |
| | Koilas Nauth Kor | ... Calcutta Free Church Institution. |
| | Koonjo Behary Bose | ... Barripore Aided School. |
| 70 | Koonjo Behary Mullick | ... Hindu School. |
| | Krishn Rao Pundit | ... Teacher. |
| | Kristo Dhone Chatterjea | ... Berhampore Collegiate School. |
| | Kristo Laul Dutt | ... Hindu School. |
| | Kumud Bundhu Bose | ... Mymensingh School. |
| | Lakshmi Shankara | ... Queen's College, Benares. |
| | Luckhee Narain Doss Goopta | ... Chinsurah Free Church Institution. |
| | Mahomed Yehia | ... Patna College. |
| | Manick Chunder Ghose | ... Pubna School. |
| | Mohanundo Gupta | ... Hooghly Collegiate School. |
| 80 | Mohendro Chunder Mitter | ... Hooghly Branch School. |
| | Mohendro Loll Goshamy | ... Ooterparah School. |
| | Mohendro Nauth Dutt | ... Queen's College, Benares. |
| | Mohendro Nauth Roy | ... Colootollah Branch School. |
| | Mohim Chunder Chuckerbutty | ... Pogose School. |
| | Mohit Chunder Bose | ... Hindu School. |
| | Mokhoda Churn Sen | ... Colootollah Branch School. |
| | Mon Mohun Mitter | ... Bullagur Aided School. |
| | Mon Mohun Sircar | ... Calcutta Free Church Institution. |
| | Moorary Mohun Seal | ... Chinsurah ditto ditto. |
| 90 | Mukhun Lall | ... Agra College. |
| | Mukhun Lall | ... Teacher. |
| | Murli Dhur | ... Victoria College. |
| | Mutty Laul Roy | ... Hindu School. |
| | Mutty Laul Mookerjea | ... Chinsurah Free Church Instution. |
| | Nil Madub Banerjea | ... Colootollah Branch School. |
| | Nilmoney Ghose | ... Berhampore Collegiate School. |
| | Nitta Nundo Dey | ... Midnapore School. |
| | Nogendro Nauth Roy | ... Berhampore Collegiate School. |
| | Norrendro Coomar Roy Chowdhry | ... Barripore Aided School. |
| 100 | Nritto Gopaul Chatterjea | ... Kistonogur Aided School at Mohestollah. |
| | Nundo Laul Ghose | ... Midnapore School. |
| | Okhil Churn Mullick | ... Hindu School. |
| | Okhoy Coomar Chatterjea | ... Patna College. |
| | Opendro Narain Mozoomdar | ... Colootollah Branch School. |
| | Opendro Nauth Sen | ... Ditto. |
| | Pearay Lall | ... Bareilly College. |
| | Peary Mohun Gooho | ... Bangla Bazar School. |
| | [illegible] der Ghose | ... Colootollah Branch School. |
| | [illegible] mar | ... Ootterparah School. |
| 11[illegible] | [illegible] se | ... Khanakool Kishnagur A. S. School. |
| | [illegible] Goopta | ... Nizamut School. |
| | [illegible] Paul | ... Hooghly Collegiate School. |
| | [illegible] | ... Calcutta Free Church Institution. |
| | [illegible] | ... Seal's Free College. |
| | [illegible] Sett | ... Hindu School. |
| | [illegible] Chatterjea | ... Ooterparah School. |
| | [illegible] h Ghose | ... Colootollah Branch School. |
| | [illegible] Roy Chowdhry | ... L. M. S. Institution, Bhowanipore. |
| | [illegible] ree | ... Kishnagur Collegiate School. |
| 120 | Rea[illegible] | ... La Martiniere College. |
| | Ro[illegible] der Dutt | ... Colootollah Branch School. |

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| | Roy Buns Kishore | ... Patna College. |
| | Rye Churn Ghose | ... Hooghly Branch School. |
| | Shama Churn Banerjea | ... Patna College. |
| | Shama Chur[illegible] Roy | ... Mymensing School. |
| | Shama Do[illegible] | ... Colootollah Branch School. |
| | Shib Chunder Banerjea | ... Metropolitan Institution. |
| | Shib Nath Banerjea | ... Kishnaghur Collegiate School. |
| | Shib Nauth Bhuttacharjea | ... Berhampore Collegiate School. |
| 130 | Shoshee Bhoosun Banerjea | ... Ooterparah School. |
| | Shoshee Bhoosun Sircar | ... Kishnaghur Anglo-Vernacular School. |
| | Shusti Doss Roy | ... Kishnaghur Collegiate School. |
| | Sutto Krishen Bose | ... Berhampore Collegiate School. |
| | Tarini Churn Ghose | ... Calcutta Free Church Institution. |
| | Taruck Bundhu Chuckerbutty | ... Dacca Collegiate School. |
| | Thompson, J. B. | ... Doveton College. |
| | Troilokho Nauth Bose | ... Calcutta Training Academy. |
| | Umbica Churn Dutt | ... Oriental Seminary. |
| | Upendro Nauth Doss | ... Sanscrit College. |
| 140 | Wooma Cally Mookerjea | ... Bulluty Aided School. |
| | Wooma Churn Ghose | ... Chinsurah Free Church Institution. |
| 142 | Woomesh Chunder Chutterjea | ... Hooghly Branch School. |

SECOND DIVISION.

*In Alphabetical Order.*

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| | Abdool Jubber Chowdry | ... Burdwan Moharaja's School. |
| | Abdoor Rusheed | ... Colingah Branch School. |
| | Ajoodhia Pershaud | ... Bareilly College. |
| | Amritto Laul Dutt | ... Metropolitan Institution. |
| | Anundo Chunder Mookerjea | ... Boroe Aided School. |
| | Anundo Chunder Sing | ... Burdwan Moharaja's School. |
| | Anundo Nauth Roy | ... Pogose School. |
| | Anundo Ram Burrooah | ... Gowhatty School. |
| | Aubinash Chunder Ghosal | ... Ooterparah School. |
| 10 | Audhor Chunder Mookerjea | ... Kishnaghur Collegiate School. |
| | Audhor Chunder Sircar | ... Calcutta Free Church Institution. |
| | Audoito Nauth Mundol | ... Barrackpore School. |
| | Aughore Chunder Dutt | ... Jehanabad School. |
| | Aukhoy Coomar Gangooly | ... Howrah School. |
| | Aushootosh Laha | ... Konnugger Seminary. |
| | Aushootosh Mitter | ... General Assembly's Institution. |
| | Aushootoosh Mookerjea | ... Kishnaghur Anglo-Vernacular School. |
| | Bahadur Singh | ... Bareilly College. |
| | Balmokund Purohit | ... Saugor School. |
| 20 | Bama Churn Banerjee | ... Taltollah Preparatory School. |
| | Bama Churn Chatterjea | ... General Assembly's Institution. |
| | Bama Churn Roy | ... Serampore College. |
| | Bama Churn Sen | ... Hooghly Collegiate School. |
| | Baney Madub Banerjea | ... Bansbariah Free Church Branch School. |
| | Baney Madub Banerjea | ... Teacher. |
| | Baney Madub Doss | ... Allipore School. |
| | Baney Madub Doss | ... Howrah School. |
| | Baney Madub Mookerjea | ... Goburdangah School. |
| | Baney Madub Paul | ... Chinsurah Free Church Institution. |
| 30 | Baranoshee Benerjea | ... Tumlook School. |
| | Batuk Nath Dubee | ... Teacher. |
| | Beereshur Bose | ... Mozufferpore School. |
| | Beereshur Mitter | ... Queen's College, Benares. |
| | Behary Laul Banerjea | ... Calcutta Free Church Institu[illegible] |
| | Behary Laul Bose | ... Ditto. |
| | Behary Laul Bose | ... Shambazar Preparatory School. |
| | Behary Laul Bysack | ... Calcutta College. |
| | Behary Laul Coondoo | ... L. M. S. Institution, Bh[illegible] |
| | Behary Laul Mozoomdar | ... Oriental Seminary. |
| 40 | Benjamin Goluck Nauth | ... Lahore Mission School. |
| | Benode Behary Banerjea | ... Ilsoba Mondlye Aided School. |
| | Benode Behary Doss | ... Colootollah Branch School. |
| | Benode Behary Ghose | ... General Assembly's Institution. |
| | Benode Laul Pattuck | ... Hooghly Branch School. |
| | Bepin Behary Bose | ... Burdwan [illegible] M. S. Institution. |
| | Bepin Behary Chowdry | ... Berhampore Collegiate School. |
| | Bepin Behary Sircar | ... Calcutta Free Church Institution. |
| | Bepin Chunder Roy | ... Burrisaul School. |

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| | Bhobani Churn Bhadoory | ... Howrah School. |
| 50 | Bhobani Churn Ghuttuck | ... Pubna School. |
| | Bhobani Churn Mitter | ... Chinsurah Free Church Institution. |
| | Bhoirub Chunder Dey | ... Bancoorah School. |
| | Bhoirub Chunder Dey | ... Chittagong School. |
| | Bholanath | ... St. John's College, Agra. |
| | Bhola Nauth Doss | ... Calcutta Free Church Institution. |
| | Bhoobun Mohun Bose | ... Juggutbullubpore Aided School. |
| | Bhoobun Mohun Mitter | ... Colootollah Branch School. |
| | Bhoobun Mohun Moitro | ... Beauleah School. |
| | Bhoobun Mohun Soor | ... Hooghly Collegiate School. |
| 60 | Bhoosun Chunder Lahiree | ... Howrah School. |
| | Bhoot Nauth Mookerjea | ... Chinsurah Free Church Institution. |
| | Bhuggoban Chunder Dutt | ... Ampta Aided School. |
| | Bhuggobutty Churn Bose | ... Hindu Institution, Jorasanko. |
| | Bippro Dass Dutt | ... Burrisaul School. |
| | Bishoow Purshaud | ... Patna College. |
| | Boido Nauth Chatterjea | ... Chinsurah Free Church Institution. |
| | Boido Nauth Dutt | ... Calcutta Training Academy. |
| | Bolly Chunder Ghose | ... Hindu Metropolitan Institution. |
| | Boroda Churn Mookerjea | ... Colootollah Branch School. |
| 70 | Boroda Prosaud Chutto | ... Juggutbullubpore Aided School. |
| | Boroda Prosaud Mozoomdar | ... Burdwan Moharaja's School. |
| | Boroda Gobind Bagchee | .. Beauleah School. |
| | Bosunto Coomar Mookerjee | ... Teacher. |
| | Bosunto Coomar Gooho | ... Pogose School. |
| | Bosunto Coomar Moitry | ... Beauleah School. |
| | Bradley, R. | ... St. Xavier's College. |
| | Brij Paul Dass | ... Queen's College, Benares. |
| | Brojo Loll Sircar | ... Seal's Free College. |
| | Brojo Nauth Dey | ... Sanscrit College. |
| 80 | Brojendro Coomar Gupto | ... Ditto. |
| | Brojendro Chunder Banerjea | ... Berhampore Collegiate School. |
| | Buccrashur Mitter | ... Metropolitan Institution. |
| | Buddy Nauth Mullick | ... Pubna School. |
| | Bungsheedhur Roy | ... Nizamut School. |
| | Bunsee Dhur | ... Teacher. |
| | Burroughs, J. | ... Doveton College. |
| | Bykunt Chunder Naug | ... Burrisaul School. |
| | Bykunt Nauth Mookerjee | ... Berhampore Collegiate School. |
| | Cally Comul Gooho | ... Burrisaul School. |
| 90 | Cally Coomar Chuckerbutty | ... Khajah Abdool Guney's Free School. |
| | Cally Coomar Gangooly | ... Pogose School. |
| | Cally Kishore Doss | ... Ditto. |
| | Cally Nauth Sen | ... Ditto. |
| | Cally Prosunno Chowdry | ... Midnapore School. |
| | Cally Prosunno Mookerjea | ... Hooghly Collegiate School. |
| | Cally Prosunno Sen | ... Burrisaul School. |
| | Cally Puddo Banerjea | ... Baraset School. |
| | Cally Puddo Roy | ... Hindu School. |
| | Cartland, F. | ... Serampore College. |
| 100 | Chatelier, E. J. | ... Cuttack School. |
| | Chintamoney Chowdry | ... Berhampore Collegiate School. |
| | Chintamoney Gangooly | ... Oriental Seminary. |
| | Chooney Laul Seal | ... Calcutta Training Academy. |
| | Chosuck Ram | ... Umritsur School. |
| | Chundee Chu[illegible]ge | ... Hooghly Collegiate School. |
| | Chunder C[illegible]ngooly | ... Ooterparah School. |
| | Ch[illegible]t | ... Noral Aided School. |
| | [illegible] | ... Furreedpore School. |
| | [illegible]ngooly | ... Mohespore Aided School. |
| 110 | [illegible]nerjea | ... Teacher. |
| | [illegible]howdry | ... Satragachee Evening School. |
| | [illegible] Roy | ... Taltollah Preparatory Seminary. |
| | Dab[illegible] | ... Agra College. |
| | Daya [illegible] | ... Delhi College. |
| | Debend[illegible] Sen | ... Furreedpore School. |
| | Debend[illegible] Roychowdry | ... Barripore Aided School |
| | Debend[illegible]nerjee | ... Bullagur A[illegible]d School. |
| | Debendr[illegible]y | ... Takey Aided School. |
| | Deno N[illegible] | ... Lahore Misson School. |
| 120 | Deno B[illegible]tter | ... Singarcone Badla A. V. School. |
| | Deno B[illegible]oy | ... Pogose School. |
| | Deno N[illegible]erjee | ... Serampore College. |
| | Deno [illegible] | ... Konnogur School. |

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| | Deno Nath Chowdry | Satragachee E. School. |
| | Dila Ram | Barielly College. |
| | Doorga Churn Banerjee | Sanscrit College. |
| | Doorga Ch[illegible] Sen | Hindoo Institution, Jorasanko. |
| | Do[illegible]ga Das [illegible]erjee | Santipore Aided School. |
| | Doorga Nath Pakrashee | Beauleah School. |
| 130 | Dost Mahomed Khan | St. John's College, Agra. |
| | Doyal Chunder Banerjee | Agurparah C. M. S. Institution. |
| | Dwarka Nath Bagchee | Berhampore Collegiate School. |
| | Dwarka Nath Banerjee | Beauleah School. |
| | Dwarka Nath Ghose | Hamidpore School. |
| | Dwarka Nath Goohoo | Furreedpore School. |
| | Dwarka Nath Mookerjee | Pogose School. |
| | Dwarka Nath Patro | Chinsurah Free Church Institution. |
| | Dwarka Nath Sen | Seal's Free College. |
| | Dwarka Nath Surma | Tagoria Aided School. |
| 140 | Dhunee Ram | Umritsur School. |
| | Elahi Buksh | Patna College. |
| | Eshan Chunder Gupta | Burrisaul School. |
| | Eshan Chunder Sing | Hooghly Collegiate School. |
| | Eshwar Chunder Bhuddro | Burrisaul School. |
| | Eshwar Chunder Chatterjea | Ajoodhia Aided A. V. School. |
| | Ewing, R. C. | La Martiniere College. |
| | Faiz Ullah | Umritsur Mission School. |
| | Fleming, W. E. | La Martiniere College. |
| | Foid, A. | St. Xavier's College. |
| 150 | Futtick Chunder Mozoomdar | Burrisaul School. |
| | Galestin, G. | Bishop's College. |
| | Ganput Giri Gossain | Joy Narain's College, Benares. |
| | Girendro Nauth Nundy | Ranaghat School. |
| | Gobindo Chunder Bose | Burrisaul School. |
| | Gobindo Chunder Coomar | Colootollah Branch School. |
| | Gobindo Chunder Dey | Baraset School. |
| | Golam Ahmud | Calcutta Mudrissa. |
| | Gomez, J. | Teacher. |
| | Goopee Nauth Mattay | Patna College. |
| 160 | Goordit Sing | Umritsur Mission School. |
| | Gooroo Gobind Ghose | Pogose School. |
| | Gooroo Nauth Sen | Burrisaul School. |
| | Gooroo Prosad Chuckerbutty | Bograh School. |
| | Gopal Chunder Banerjea | Kishnaghur Collegiate School. |
| | Gopal Chunder Banerjea | Mamjooan Aided School. |
| | Gopal Chunder Banerjea | Santipore Aided School. |
| | Gopal Chunder Bose | Colootollah Branch School. |
| | Gopal Chunder Chuckerbutty | Noral Aided School. |
| | Gopal Chunder Sen | Bansbariah Free Church Institution. |
| 170 | Gopal Lall Mitter | Seal's Free College. |
| | Gopal Prosaud Bose | Mymensing School. |
| | Gopal Prosunno Mozoomdar | Metropolitan Institution. |
| | Gopee Churn Dutt | Sylhet Mission School. |
| | Gree Bhoosun Neogy | Barrackpore School. |
| | Grey, J. | Doveton College. |
| | Gridhary Dutt | Hooghly Collegiate School. |
| | Grish Chunder Doss | Pogose School. |
| | Grish Chunder Ghose | Calcutta Training Academy. |
| | Grish Chunder Ghose | Noral Aided School. |
| 180 | Grish Chunder Mookerjea | Beerbhoom School. |
| | Grish Chunder Sen | Ditto. |
| | Grish Chunder Tolapatro | Beauleah School. |
| | Gunga Dhur Mozoomdar | Berhampore Collegiate Sc[illegible] |
| | Gunga Ram | Lahore College. |
| | Haradhone Mookerjea | Hindu School. |
| | Haran Chunder De | Calcutta Free Church Insti[illegible] |
| | Hem Chunder Banerjea | Howrah School. |
| | Hem Chunder Banerjea | Calcutta Training Acad[illegible] |
| | Hem Chunder Kur | L. M. S. Institution, Bho[illegible] |
| 190 | Hem Chunder Mitter | Calcutta Free Church Insti[illegible] |
| | Hem Chunder Paul | Hooghly Branch School. |
| | Hem Nauth Bose | Colo[illegible] Branch School. |
| | Hem Nauth Doss | [illegible]ch[illegible]o. |
| | Hem Nauth Dutt | Hindu M. [illegible]ol. |
| | Hera Laul Hatti | Maldah School. |
| | Hera Lall Mookerjea | Hooghly Collegiate School. |
| | Hera Lall Nundy | Konnugger School. |
| | Hur Coomar Sen | Pogose School. |

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| | Hurish Chunder Bhutto | Bullute Aided School. |
| 200 | Hurish Chunder Chatterjea | Calcutta Free Church Institution. |
| | Hurish Chunder Mookerjea | Cuttack School. |
| | Hurish Chunder Sen | Commillah School. |
| | Hurro Coomar Doss | Pogose School. |
| | Hurro Coomar Ghose | Burrisaul School. |
| | Hurro Loll Singh | Hooghly Collegiate School. |
| | Hurro Nauth Banerjea | Jonye Training School. |
| | Hurro Nauth Bose | Colootollah Branch School. |
| | Hurry Churn Mookerjea | Kishnaghur Anglo Vernacular School. |
| | Hurry Mohun Banerjea | Burrisaul School. |
| 210 | Hurry Mohun Chand | Dinagepore School. |
| | Hurry Mohun Surmah | Khajah Abdool Gunny's School. |
| | Hurry Nauth Chatterjea | Hindu School. |
| | Hurry Prosonno Mookerjea | Santipore Aided School. |
| | Inayat-ul-Ruhomun, M. | Delhi College. |
| | Indro Mohun Chatterjea | Hindu School. |
| | Ishan Chunder Bagchee | Bograh School. |
| | Ishan Chunder Banerjea | Sanscrit College. |
| | Ishan Chunder Mitter | Boroe Aided School. |
| | Ishan Chunder Mozoomdar | Burdwan Moharaja's School. |
| 220 | Ishan Chunder Sircar | Metropolitan Institution. |
| | Ishwar Chunder Ghose | Dacca Collegiate School. |
| | Ishwar Chunder Paul | Kallypara Aided School. |
| | Jadub Lall Sen | Pogose School. |
| | Jagadishur Gupto | Calcutta Free Church Institution. |
| | Jaggan Nath | Lahore Mission School. |
| | Jancky Nath Saha | Calcutta College. |
| | Jodoo Nath Banerjee | Sulkea Anglo Vernacular School. |
| | Jodoo Nath Bose | Calcutta Training Academy. |
| | Jodoo Nath Bysack | Dacca Collegiate School. |
| 230 | Jodoo Nath Chuckerbutty | Burdwan Moharaja's School. |
| | Jodoo Nath Mitter | General Assembly's Institution. |
| | Jodoo Nath Mookerjee | Khanacool Kishnaghur A. S. School. |
| | Jodoo Nath Seal | Hooghly Collegiate School. |
| | Jodoo Nath Sreemoney | Oriental Seminary. |
| | Jogendro Chunder Banerjee | Beerbhoom School. |
| | Jogendro Chunder Mookerjee | Bullagur Aided School. |
| | Jogendro Nath Banerjee | Hindu School. |
| | Jogendro Nath Deb | Ditto. |
| | Jogendro Nath Roy | Berhampore Collegiate School. |
| 240 | Jogesh Chunder Bagchee | Beauleah School. |
| | Jogesh Chunder Dutt | Oriental Seminary. |
| | Jogesh Chunder Sircar | Burdwan Moharaja's School. |
| | Jogeshur Mookerjee | Chinsurah Free Church Institution. |
| | Jogeshur Mookerjee | Mozufferpore School. |
| | Jogeshur Shome | Hindu Institution, Jorasanko. |
| | Johur Lall Banerjee | Hindu School. |
| | Jollodhur Seal | Chinsurah Free Church Institution. |
| | Jossada Nundon Sircar | Private Student. |
| | Jotirinder Nath Tagore | Calcutta College. |
| 250 | Joy Chundra Chowdry | Mymensing School. |
| | [illegible] | Noral Aided School. |
| | [illegible] | Tagoria Aided School. |
| | [illegible] | St. Stephen's College, Delhi. |
| | [illegible] | Barielly College. |
| | [illegible] | Colootollah Branch School. |
| | [illegible] | Shambazar Preparatory School. |
| | [illegible]rjee | Chinsurah Free Church Institution. |
| | [illegible]olly | Barripore Aided School. |
| | [illegible]dry | Colootollah Branch School. |
| | [illegible]charjee | Metropolitan Institution. |
| | [illegible]arjee | Paikparah Aided School. |
| | [illegible] | Coomercolly Aided School. |
| | [illegible]e | Howrah School. |
| | [illegible]ee | Hindu School. |
| | [illegible] | Pogose School. |
| | [illegible] | Kallyparah Aided School. |
| | [illegible] | Ootterparah School. |
| | [illegible] | Howrah School. |
| | [illegible] | Juggutbullubpore Aided School. |
| | [illegible] | Hooghly Collegiate School. |
| | [illegible] | Seal's Free College. |
| | [illegible] | Calcutta College. |

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| | Kedar Nath Mookerjee | General Assembly's Institution. |
| | Kedar Nath Panjee | Bullutty Aided School. |
| | Kedar Nath Roy | Oriental Seminary. |
| | Keshub Chunder Bose | Calcutta Training Academy. |
| | Kheroda Coomar Banerjee | Burdwan Moharaja's School. |
| | Khetter Chunder Ghose | Sanscrit College. |
| | Khetter Mohun Chatterjee | Calcutta Free Church Institution. |
| 280 | Khetter Mohun Doss | Hallyshuhur School. |
| | Khetter Mohun Ghose | Sodepore Aided School. |
| | Khetter Mohun Mitter | Ootterparah School. |
| | Khetter Mohun Roy Chowdry | Seal's Free College. |
| | Khurgeshur Bose | Patna College. |
| | Kishen Lall | Teacher. |
| | Kishory Lall Bhur | Chinsurah Free Church Institution. |
| | Kishory Chand Ghose | Kishnaghur Collegiate School. |
| | Kishory Mohun Gungoolly | Jonye Training School. |
| | Koolo Chunder Burmun | Pogose School. |
| 290 | Koonjobehary Bhuttacharjee | Berhampore Collegiate School. |
| | Koylash Chunder Banerjee | Commercolly Aided School. |
| | Koylash Chunder Roy | Medical College. |
| | Koylash Chunder Sen | Chittagong School. |
| | Koylash Chunder Sircar | Oriental Seminary. |
| | Koylash Nauth Banerjee | Bagnaparah Aided School. |
| | Krishna Gopal Bhuckto | Howrah School. |
| | Krishna Gopal Sircar | Calcutta Free Church Institution. |
| | Kristo Chunder Banerjee | Berhampore Collegiate School. |
| | Kristo Dhun Bagchee | Beauleah School. |
| 300 | Krishto Coomar Gooho | Pogose School. |
| | Lala Gunga Prosaud | Beerbhoom School. |
| | Lall Mohun Chuckerbutty | Serampore College. |
| | Lall Mohun Dass | Nizamut School. |
| | Loke Nauth Nundy | Ilsoba Mondlye Aided School. |
| | Lolit Mohun Dhur | Pogose School. |
| | Lowther, C. | St. John's College, Agra. |
| | Luchmee Narain | Agra College. |
| | Lulful Kubeer | Calcutta Mudressa. |
| | Madub Chunder Burdohoye | Gowhatty School. |
| 310 | Madho Narain | Delhi College. |
| | Madho Rao Venaik | Barreilly College. |
| | Mohomud Luteef | Lahore College. |
| | McGowan, S. | Doveton College. |
| | Mehar Chand | Umritsur School. |
| | Mehir Lall Chatterjee | L. M. S. Institution, Bhowanipore. |
| | Modhoosudun Banerjea | Teacher. |
| | Mudhoosudun Doss | Cuttack School. |
| | Modhoosudun Mohapatra | Ditto. |
| | Modhoosudun Mookerjea | Beerbhoom School. |
| 320 | Modhoosudun Mookerjea | Calcutta Training Academy. |
| | Modhoosudun Roy | Dacca Collegiate School. |
| | Mohadeb Banerjea | Jugguthbullu[illegible] |
| | Mohendro Coomar Bose | Tagoria Aide[illegible] |
| | Mohendro Lall Chatterjea | Serampore C[illegible] |
| | Mohendro Nath Bannerjea | Kally Ghat H[illegible] |
| | Mohendro Nath Bhuttacharjea | Howrah Scho[illegible] |
| | Mohendro Nath Chatterjea | Colootollah Br[illegible] |
| | Mohendro Nath Ghose | Calcutta Train[illegible] |
| | Mohendro Nath Mitter | Calcutta Colle[illegible] |
| 330 | Mohendro Nath Mookerjea | Berhampore C[illegible] |
| | Mohendro Nath Mozoomdar | Cossipore Aide[illegible] |
| | Mohendro Nath Mullick | Colootollah Br[illegible] |
| | Mohendro Nath Naug | Garden Reach [illegible] |
| | Mohendro Nath Seal | Hooghly Colleg[illegible] |
| | Mohammud Hussan | Jullundur Missi[illegible] |
| | Mohammud Saud | Barrielly Colleg[illegible] |
| | Mohesh Chunder Dey | Chittagong Sch[illegible] |
| | Mohim Chunder Sircar | Berhampore Coll[illegible] |
| | Mohima Chunder Bhadoory | Beauleah School. |
| 340 | Mohun Lall | Agra College. |
| | Monendro Coomar Dutt | Sham[illegible] Prepa[illegible] |
| | Monnee Lall | Teac[illegible] |
| | Monohary Lall Shome | Chinsu[illegible] Free C[illegible] |
| | Monohur Doss | Berhampore Colle[illegible] |

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| | More, H. S. G. | ... Serampore College. |
| | Mothoora Nath Sen | ... Burrisaul School. |
| | Muddon Gopal Sing | ... Beerbhoom School. |
| | Muddon Mohun | ... Agra College. |
| | Mudden Mohun Doss | ... Dacca Collegiate School. |
| 350 | Mudden Mohun Mitter | ... Colootollah Branch School. |
| | Mutti, B. F. | ... Victoria College. |
| | Mutty Lall Neogy | ... Metropolitan Institution. |
| | Mutty Lall Sircar | ... Santipore Aided School. |
| | Muzuhur Ali | ... Calcutta Mudressa. |
| | Nanuck Pershad | ... Purneah School. |
| | Nilmadub Roy | ... Patna College. |
| | Nilmoney Doss | ... Private Student. |
| | Nilmoney Koer | ... Hooghly Collegiate School. |
| | Nilmoney Paul | ... Ditto. |
| 360 | Nitto Gopal Lahiry | ... Kunnogur School. |
| | Nizam Din | ... Jullunder Mission School. |
| | Nobin Chunder Chuckerbutty | ... Calcutta Training Academy. |
| | Nobin Chunder Mookerjee | ... Agurparah C. M. S. Aided School. |
| | Nobo Coomar Dey | ... Colootollah Branch School. |
| | Nobodip Chunder Seal | ... Chinsurah Free Church Institution. |
| | Nobokristo Hazra | ... Berhampore Collegiate School. |
| | Nrisingha Moorary Panja | ... Burdwan Moharaja's School. |
| | Nuffer Chunder Roy | ... Jerate Aided School. |
| | Nundo Lall Dey | ... Hooghly Collegiate School. |
| 370 | Nundo Lall Doss | ... Khajah Abdool Gunny's Free School. |
| | Nundo Lall Mookerjee | ... Howrah School. |
| | Nundo Lall Paul | ... Hooghly Collegiate School. |
| | Nundo Lall Sen | ... Ditto ditto. |
| | Nussyram Seal | ... Chinsurah Free Church Institution. |
| | Obhoy Churn Chatterjee | ... Oriental Seminary. |
| | Odhur Chunder Chunder | ... Hooghly Collegiate School. |
| | Okhoy Coomar Bhur | ... Paikparah Aided School. |
| | Omesh Chunder Bose | ... L. M. S. Institution, Bhowanipore. |
| | Omesh Chunder Sircar | ... General Assembly's Institution. |
| 380 | Omirto Lall Banerjee | ... Baraset School. |
| | Omirto Lall Dose | ... Ditto. |
| | Omirto Lall Halder | ... Hindu School. |
| | Omirto Lall Kurmokar | ... Bally Seminary. |
| | Omirto Lall Mozumdur | ... Colootollah Branch School. |
| | Omirto Nath Mitter | ... Hindu School. |
| | Ooma Nath Doss | ... Commillah School. |
| | Opendro Nath Dose | ... Hindu School. |
| | Opendro Nath Dutt | ... Howrah School. |
| | Opendro Nath Roy | ... Ditto. |
| 390 | Opendro Narion Paul | ... Ilsoba Mondlye Aided School. |
| | Otool Chunder Mookerjee | ... Ootterparah School. |
| | Otool Krishen Mitter | ... Gya School. |
| | Parbutty Churn Wopdhy | ... Chinsurah Free Church Institution. |
| | Peary Lall Mitter | ... Seal's Free College. |
| | Peary Lall Sircar | ... General Assembly's Institution. |
| | Peary Mohun Banerjee | ... Pogose School. |
| | Pereira, W. | ... Burrisaul School. |
| | Poolin Behary Dey | ... Hooghly Collegiate School. |
| | Poorno Chunder Chatterjee | ... Hindu School. |
| 400 | Poorno Chunder Chatterjee | ... Kunnogur School. |
| | Poorno Chunder Chatterjee | ... Chinsurah Free Church Institution. |
| | Poorno Chunder Doss | ... Mymensing School. |
| | [illegible] Ghose | ... Calcutta Training Academy. |
| | [illegible] July 1864 Bose | ... Calcutta Free Church Institution. |
| | [illegible] Mookerjee | ... Krishnaghur Anglo Vernacular School. |
| | [illegible] | ... Jessore School. |
| | [illegible] | ... Colootollah Branch School. |
| | [illegible] | ... Hooghly Branch School. |
| | [illegible] | ... Noral Aided School. |
| 410 | [illegible] | ... Hooghly Collegiate School. |
| | [illegible] | ... Khanacool Kishnaghur A. S. School. |
| | [illegible] | ... Pogose School. |
| | [illegible] | ... L. M. S. Institution, Bhowanipore. |
| | [illegible] | ... Pogose School. |
| | [illegible] | ... Berhampore Collegiate School. |
| | [illegible] | ... Colootollah Branch School. |

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| | Punchanun Bose | ... Midnapore School. |
| | Punchanun Palodhi | ... Khanacool Kishnaghur A. S. School. |
| | Pundit Beharry Lall | ... St. Stephen's College, Delhi. |
| 420 | Pundit Birj Nath | ... Lahore College. |
| | Pundit Dwarka Nath | ... Ditto. |
| | Pundit Pran Nath | ... Ditto. |
| | Purmeshur Dhan | ... Burdwan Moharaja's School. |
| | Radhabulub Seal | ... Chinsurah Free Church Institution. |
| | Radhakissore Sett | ... Hooghly Branch School. |
| | Radha Kristo Dutt | ... Mozufferpore School. |
| | Radharomun Nundy | ... Oriental Seminary. |
| | Radhica Prosaud Moitro | ... Calcutta College. |
| | Rahas Behary Naik | ... Pooree School. |
| 430 | Rajendro Coomar Ghose | ... Barripore Aided School. |
| | Rajendro Nath Mookerjee | .. Bhaugulpore School. |
| | Rakhal Chunder Dey | ... Oriental Seminary. |
| | Rakhal Chunder Sen | ... Hindu School. |
| | Rakhal Doss Chatterjee | ... Serampore College. |
| | Rakhal Doss Gangooly | ... Kishnaghur Collegiate School. |
| | Rakhal Doss Sircar | ... Puruliah School. |
| | Ram Chunder Mookerjee | ... Ilsoba Mondly Aided School. |
| | Ram Churn Paul | ... General Assembly's Institution. |
| | Ram Cumul Mitter | ... Boroe Aided School. |
| 440 | Ram Coomar Chuckerbutty | ... Teacher. |
| | Ram Coomar Doss | ... Calcutta College. |
| | Ram Coomar Dutt | ... Bangla Bazar School. |
| | Ram Doyal Muzomdar | ... Chinsurah Free Church Institution. |
| | Ram Gopal Khan | ... Kishnaghur Collegiate School. |
| | Ram Gopal Sanial | ... Kishnaghur Anglo Vernacular School. |
| | Ramjeebun Ghose | ... Beerbhoom School. |
| | Ram Lall Bhoomic | ... Pubna School. |
| | Ram Lall Bose | ... Noral Aided School. |
| | Ram Lall Ghose | ... Berhampore Collegiate School. |
| 450 | Ram Lall Mookerjee | ... Jonye Training School. |
| | Ram Narion, P. | ... Lahore Mission School. |
| | Ram Prosunno Roy | ... Seal's Free College. |
| | Ram Puddo Sing | ... Ditto. |
| | Ramsoonder Bhoomic | ... Mymensing School. |
| | Ramtunnoo Chowdry | ... Bogra School. |
| | Ramjee Mull | ... Barrielly College. |
| | Roghoo Nath Chuckerbutty | ... Berhampore Collegiate School. |
| | Roghoonundon Sohai | ... Private Student. |
| | Rojonicanto Bhuttacharjee | ... Dacca Collegiate School. |
| 460 | Rojonicanto Ghuttuck | ... Calcutta Free Church Institution. |
| | Rojoni Canto Sen | ... Burrisaul School. |
| | Rojoni Nath Mookerjea | ... Jonye Training School. |
| | Rojoni Nath Bose | ... Dacca Collegiate School. |
| | Roma Nath Mitter | ... Calcutta Training Academy. |
| | Ruhim Buksh | ... Hooghly Collegiate School. |
| | Russell, G. | ... Doveton College. |
| | Russick Lall Samunto | ... Sulkea Anglo Vernacular School. |
| | Rutty Canto Ghose | ... Alipore School. |
| | Salig Ram | ... Agra College. |
| 470 | Saroda Prosaud Banerjea | ... Culna Free Church Branch School. |
| | Saroda Prosaud Chatterjea | ... Hindu School. |
| | Saroda Prosaud Chatterjea | ... Sanscrit College. |
| | Saroda Prosaud Mookerjea | ... Berhampore Collegiate School. |
| | Saroda Prosaud Sen | ... Burdwan Moharaja's School. |
| | Saroda Prosaud Sircar | ... Kunnuggur School. |
| | Shadhoo Churn Rukhit | ... Hooghly Collegiate School. |
| | Shaikh Dedar Buksh | ... L. M. S. Institution, Bhowanip[illegible] |
| | Shaikh Zalmoor-Ali-Ahmed | ... Gowhatty School. |
| | Sham Chand Roy | ... Kishnaghur Collegiate School. |
| 480 | Shama Churn Banerjea | ... Cuttack School. |
| | Shama Churn Doss | ... Andool School. |
| | Shama Churn Gooho | ... Commillah School. |
| | Sheo Narain | ... Jeypore Moharaja's College. |
| | Sheo Pershaud | ... Gya School. |
| | Shere Ali | ... Berham[illegible]llegiate School. |
| | Shib Chunder Ghose | ... Mymens[illegible]ool. |
| | Shib Kissen Dutt | ... Serampore [illegible]ege. |
| | Shiboram Burrah | ... Gowhatty School. |
| | Shiboo Prosonno Mookerjee | ... Colootollah Branch School. |

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| 490 | Shookh Deo Singh | ... Teacher. |
| | Shookmoy Mullick | ... Singarcone Badla Anglo Vernacular School. |
| | Shoshee Bhoosun Bhoomic | ... Calcutta Free Church Institution. |
| | Shoshee Bhoosun Chatterjee | ... Kunnuggur School. |
| | Shoshee Bhoosun Chatterjea | ... Bullutee Aided School. |
| | Shoshee Bhoosun Mookerjee | ... L. M. S. Institution, Bhowanipore. |
| | Shoshee Sheker Sanyal | ... Joy Narain's College, Benares. |
| | Shumbhoo Chunder Dey | ... Hooghly Collegiate School. |
| | Siddessur Banerjea | .. Ditto. |
| | Siddessur Mitter | ... Hallishuhur School. |
| 500 | Sitta Nath Chatterjea | ... Hooghly Collegiate School. |
| | Smith, C. J. | ... La Martiniere College. |
| | Soorendro Nath Mookerjea | ... Teacher. |
| | Soorendro Nath Paul Chowdhry | ... Ranaghat School. |
| | Sooresh Chunder Bose | ... Calcutta Free Church Institution. |
| | Soorj Bul | ... Delhi College. |
| | Soorjoo Coomar Chuckerbutty | ... Pogose School. |
| | Soruth Chunder Banerjea | ... Hindu School. |
| | Soruth Chunder Paul | ... Ditto. |
| | Sree Gopaul Chatterjea | ... Krishnaghur Collegiate School. |
| 510 | Sree Hursho Bhuttacharjea | ... Bancoorah School. |
| | Sree Kanto Surmah | ... Teacher. |
| | Sree Krishna Mullick | ... Krishnaghur Collegiate School. |
| | Sree Kristo Bose | ... Hooghly Branch School. |
| | Sree Nauth Bhuttacharjea | ... Sanscrit College. |
| | Sree Nauth Mitter | ... Jerat Aided School. |
| | Sree Nauth Shadoo | ... Hooghly Collegiate School. |
| | Sree Ram Moitro | ... Pubna School. |
| | Sreesh Chunder Chowdhry | ... Gossi Doorgapore Anglo Vernacular School. |
| | Sukh Dyal | ... Umritsur Mission School. |
| 520 | Surrut Chunder Doss | ... Chittagong School. |
| | Sustibur Chuckerbutty | ... L. M. S. Institution, Bhowanipore. |
| | Susti Doss Magila | ... Burdwan Moharaja's School. |
| | Suttish Chunder Ghose | ... Hooghly Collegiate School. |
| | Sutto Kinkur Sen | ... Hindu School. |
| | Tarra Puddo Ghose | ... Hooghly Branch School. |
| | Tariny Canto Sen | ... Dacca Collegiate School. |
| | Tariny Churn Bhuttacharjee | ... Howrah School. |
| | Tariny Prosaud Sen | ... Gowalparah School. |
| | Taruck Chunder Gooho | ... Dacca Collegiate School. |
| 530 | Taruck Nath Gangoolly | ... Ootterparah School. |
| | Thomson, J. F. | ... Hooghly Collegiate School. |
| | Tin Cowry Banerjee | ... Beerbhoom School. |
| | Tin Cowry Sircar | ... Burdwan Moharaja's School. |
| | Toolsey Pershad | ... Bhaugulpore School. |
| | Tripoorah Churn Deb | ... Kunnuggur School. |
| | Troilokho Nath Chatterjee | ... Metropolitan Institution. |
| | Troilokho Nath Dutt | ... Colootollah Branch School. |
| | Troilokho Nath Nundy | ... Midnapore School. |
| | Troilokho Nath Sen | ... Hooghly Branch School. |
| 540 | Umbica Churn Chutto | ... Jugguthbullubpore Aided School. |
| | Umbica Churn Ghose | ... General Assembly's Institution. |
| | Umbica Churn Gooho | ... Pogose School. |
| | Umbica Churn Sen | ... Seal's Free College. |
| | Umba Pershad | ... Agra College. |
| | Unnoda Prosaud Aich | ... C. M. S. Institution, Burdwan. |
| | Wahaboodeen | ... Lahore College. |
| | Womesh Chu[illegible]r Sen | ... Hindu School. |
| | Wooma N[illegible]ndar | ... Bogra School. |
| | W[illegible]nesh [illegible] *July* 1864 [illegible]hatterjea | ... Hooghly Collegiate School. |
| 550 | Woo[illegible] [illegible]ircar | ... Gya School. |
| | [illegible] [illegible]nerjea | ... Metropolitan Institution. |
| | [illegible] [illegible]ookerjea | ... Hooghly Collegiate School. |
| | Yo[illegible] | ... St. Xavier's College. |
| 554 | Yous[illegible] | ... St. Stephen's College, Delhi. |

CALCUTTA [illegible]
*The 2nd* [illegible]

J. SUTCLIFFE, M. A.,
*Offg. Registrar.*

[illegible]t of the Entrance Examination held in Ceylon is not included in the above.

## SALE OF WASTE LAND AT MOHUMDEE.

Notice is hereby given that, should no objection be preferred under Act XXIII of 1863, rendering it necessary to defer sale, the several plots of Waste Land situate in the District of Mohumdee, which are entered in the list appended, will be sold by public auction on the 10th January 1865, to the highest bidder, above the upset price of two Rupees and eight Annas (2-8-0) per acre, at the Office of the Deputy Commissioner at Lukheempoor. The sales will be made in the manner, and subject to the conditions, prescribed by the rules for the sale of Waste Land in Oudh.

Copies of the rules referred to, and forms of the Deed of Sale, can be obtained, on application, at the Office of the Chief Commissioner; and maps of the allotments, on a scale of four inches to a mile, may be seen at the Office of the Deputy Commissioner of Mohumdee.

T. H. KAVANAGH,
*Offg. Deputy Commissioner.*

*List of Waste Lands available for sale in the Mohumdee District.*

| General Number. | Pergunnah. | Names of Grant. | Approximate number of Acres. | Boundaries. | Remarks. |
|---|---|---|---|---|---|
| | | | | TEHSEEL ALLEEGUNJ. | |
| 1 | Bhoor ... | Allotment No. 1 ... | 2,291 | Bounded on the west by Mr. Allen's grant; on the north by the villege Kamp; on the east by the village Kishunpoor; and on the south by the grant of Messrs. Saunders and Menzies. and the village Sooltanpoor of District Shajehanpoor, from which it is separated by the Oel River. | The River Chowka flows two miles from the northern boundary. |
| 2 | Alleegunj ... | Allotment No. 2 ... | 1,221 | Bounded on the west by Mr. Foy's grant; on the north by the village Buhadurnuggur; on the east by the village Umbara; and on the south by the grant of Ahmud Allee. | |
| 3 | Hyderabad.. | Allotment No. 3 ... | 5,272 | Bounded on the west by the grants of Abdool Wahid and Mr. Singer on the north; and north-east by the River Oel, which separates it from the grants of Mr. Meakin, Mr. Foy, and Ussud Allee; on the south by the villages Sikundurpoor, Khujooa, Puharpoor, Huzrutpoor, Kookra, and Khunjunpoor. | |
| 4 | Ditto ... | Allotment No. 4 ... | 2,555 | Bounded on the west by allotment No. 5; on the north by the grant of Messrs. Saunders and Menzies, from which it is separated by the Oel River; on the south-east by Mr. Singer's grant; and on the south-west by Captain William Hearsey's grant. | |
| 5 | Ditto ... | Allotment No. 5 ... | 3,703 | Bounded on the west by the villages Mudarpoor, Bhoodapoor, Byspoor, Jurowlee, and Sera Mow of District Shajehanpoor; on the north by the grant of Messrs. Saunders and Menzies, from which it is separated by the Oel River; on the east by allotment No. 4 and Captain William Hearsey's grant; and on the south-east by the village Mylanee. | The boundary between this allotment and the villages of District Shajehanpoor is disputed by the proprietors of the latter. |
| 6 | Ditto ... | Allotment No. 6 ... | 760 | Bounded on the north-west by the village Lurtee of District Shajehanpoor; on the north-east by the villages Mylanee and Sulabutnuggur; on the south by allotment No. 7; and on the south-west by the village Nurota of District Shajehanpoor, from which it is separated by the Kutna River. | |
| 7 | Ditto ... | Allotment No. 7 ... | 5,011 | Bounded on the west by the villages Soonbaree and Nurota of District Shajehanpoor, from which it is separated by the Kutna River; on the north by allotment No. 6 and the [illegible] Sulabutnuggur; on the east by allotments Nos. 8 and 9, from which it is separated by a water channel; on the south by the village Kurehta; and on the south-west by Mr. Powell's grant. | |

*List of Waste Lands available for sale,*—continued.

| General Number. | Pergunnah. | Name of Grant. | Approximate number of [illegible] | Boundaries. | REMARKS. |
|---|---|---|---|---|---|
| | | | | TEHSEEL ALLEEGUNJ. | |
| 8 | Hyderabad .. | Allotment No. 8. ... | 5,005 | Bounded on the west by allotment No. 7 and the viliages Sulabutnuggur and Mylanee; on the north by Captain William Hearsey's grant; on the north-east by the grants of Mr. Singer and Abdool Wahid; on the east by the village Puharnuggur; and on the south by allotment No. 9. | |
| 9 | Ditto ... | Allotment No. 9 ... | 5,014 | Bounded on the west by the village Kurehta and allotment No. 7, from which it is separated by a water channel; on the north by allotment No. 8; on the east by the villages Puharnuggur and Jutpoorwa; and on the south by Mr. Carew's grant. | |
| 10 | Ditto ... | Allotment No. 10 ... | 5,345 | Bounded on the west by Mr. Carew's grant; on the north by the villages Hurdowa, Dhankha, and Kulinjurpoor; on the east by allotment No. 11; and on the south-west by the villages Subsarpoor and Ussowa. | |
| 11 | Ditto ... | Allotment No. 11 ... | 5,202 | Bounded on the west by allotment No. 10; on the north by the villages Kulinjurpoor and Balarpoor, and Mr. Read's grant; on the east by Mr. Hamilton's grant; on the south-east by the villages Nugra, Umlia, and Kuklapoor; on the south by the village Koonwurpoor and Mr. Smith's grant; and on the south-west by the village Subsarpoor. | |
| 12 | Karunpoor .. | Allotment No. 12 ... | 408 | Bounded on the west by Mr. Hamilton's grant; on the north by Mr. Read's grant; on the east by Captain John Hearsey's grant; and on the south-east by the village Bhoorwara, from which it is separated by the made road from Gola to Alleegunj. | |
| 13 | Hyderabad.. | Allotment No. 13 ... | 622 | Bounded on the west by Mr. Carnegy's grant; on the north by the village Purelee; on the east by Captain William Hearsey's second grant; and on the south by Mr. Carnegy's second grant, from which it is separated by the Kutna River. | |

SHAJEHANPOOR,
*The 29th July 1864.*

JOHN CAVANAGH,
*Asst. Supdt., Settlement and Survey.*

*[illegible]d and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 1.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, JANUARY 7, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

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*Government of India.*

PUBLIC WORKS DEPARTMENT.

**Remunerative Works in Madras from 1857-58 to 62-63.**

*Abstract Statement of Remunerative Works in Madras from* 1857-58 *to* 1862-63.

| Name of Work. | Year. | Capital. | Revenue. | | | | Aggregate Financial Result. | |
|---|---|---|---|---|---|---|---|---|
| | | Estimated value of works. | Net income for the year after paying 4 per cent. interest on Capital. | | Net charge for the year, including payment of 4 per cent. interest on Capital. | | Profit. | Loss. |
| | | | Amount. | Rate per cent. on Capital. | Amount. | Rate per cent. on Capital. | | |
| | | Rs. | Rs. | | Rs. | | Rs. | Rs. |
| (1) Godavery Anicut with subsidiary works ... | 1857–58 | 32,61,105 | 3,68,240 | 11·3 | ... | ... | 40,32,053 | |
| | 1858–59 | 31,73,116 | 6,52,705 | 20·6 | ... | ... | 44,80,311 | |
| | 1859–60 | 32,11,683 | 9,54,824 | 29·7 | ... | ... | 54,01,867 | |
| | 1860–61 | 32,07,372 | 18,06,376 | 56·3 | ... | ... | 71,74,256 | |
| | 1861–62 | 32,38,357 | 13,83,441 | 42·7 | ... | ... | 85,23,413 | |
| | 1862–63 | 33,77,504 | 14,59,921 | 43·2 | ... | ... | 94,98,398 | |
| (2) [illegible]tna Anicut ... | 1857–58 | 13,26,007 | 68,659 | 5·2 | ... | ... | 2,245 | |
| | 1858–59 | 14,25,312 | 69,461 | 4·9 | ... | ... | 52,326 | |
| | 1859–60 | 15,44,309 | 1,50,526 | 9·7 | ... | ... | 1,72,155 | |
| | 1860–61 | 16,31,721 | 1,27,744 | 7·8 | ... | ... | 2,66,208 | |
| | 1861–62 | 17,28,457 | 1,74,510 | 10·1 | ... | ... | 4,04,605 | |
| | 1862–63 | 19,12,699 | 2,11,500 | 11·05 | ... | ... | 5,77,335 | |
| [illegible] | 1857–58 | 1,24,634 | ... | ... | 4,230 | 3·3 | 13,118 | |
| | 1858–59 | 1,29,[illegible] | 8,144 | 6·2 | ... | ... | ... | 28,738 |
| | 1859–60 | 1,74[illegible] | ... | ... | 8,387 | 4·8 | ... | 39,475 |
| | 1860–61 | 2,19[illegible] | ... | ... | 10,178 | 4·6 | ... | 49,653 |
| | 1861–62 | 2,54,7[illegible] | ... | ... | 958 | 0·3 | ... | 50,611 |
| | 1862–63 | 2,55,513 | ... | ... | 1,760 | 0·6 | ... | 52,371 |

*Abstract Statement of Remunerative Wor[illegible] &c.,*—(continued.)

| Name of Work. | Year. | Capital. | Revenue. | | | | Aggregate Financial Result. | |
|---|---|---|---|---|---|---|---|---|
| | | Estimated value of works. | Net income for the year after paying 4 per cent. interest on Capital. | | Net charge for the year, including payment of 4 per cent. interest on Capital. | | Profit. | Loss. |
| | | | Amount. | Rate per cent. on Capital. | Amount. | Rate per cent. on Capital. | | |
| | | Rs. | Rs. | | Rs. | | Rs. | Rs. |
| (4) Bachagondanahully Anicut ... ... | 1858–59 | 11,477 | ... | ... | 466 | 4·0 | ... | 6,054 |
| | 1859–60 | 11,964 | .. | ... | 821 | 6·9 | ... | 6,875 |
| | 1860–61 | 11,964 | 985 | 8·4 | ... | .. | ... | 5,910 |
| | 1861–62 | 11,964 | 875 | 7·3 | ... | ... | ... | 5,035 |
| | 1862–63 | 11,964 | 900 | 7·5 | ... | ... | ... | 3,412 |
| (5) Palar Anicut in Madras ... ... | 1858–59 | 38,953 | 4,180 | 10·7 | ... | ... | 25,133 | |
| | 1859–60 | 39,283 | 5,596 | 14·2 | ... | ... | 30,729 | |
| | 1860–61 | 39,462 | ... | ... | 1,571 | 4·0 | 29,160 | |
| | 1861–62 | 59,264 | ... | ... | 1,578 | 2·6 | 27,582 | |
| | 1862–63 | 1,36,413 | 5,777 | 4·2 | ... | ... | 33,339 | |
| (6) Coratoor and Casaveram Anicut ... | 1858–59 | 33,111 | ... | ... | 164 | ·5 | 47,506 | |
| | 1859–60 | 36,746 | 26,559 | 72·2 | ... | ... | 74,065 | |
| | 1860–61 | 36,746 | ... | ... | 2,571 | 7·0 | 71,494 | |
| | 1861–62 | 36,746 | ... | ... | 1,657 | 4·5 | 69,837 | |
| | 1862–63 | 36,746 | 6,753 | 18·3 | ... | ... | 76,590 | |
| (7) Palar Anicut in North Arcot ... ... | 1857–58 | 5,15,977 | ... | ... | 17,010 | 3·2 | ... | 36,806 |
| | 1858–59 | 5,39,946 | ... | ... | 12,366 | 2·2 | ... | 48,536 |
| | 1859–60 | 5,39,946 | ... | ... | 18,830 | 3·4 | ... | 67,366 |
| | 1860–61 | 5,43,213 | ... | ... | 17,140 | 3·1 | ... | 84,506 |
| | 1861–62 | 5,79,391 | ... | ... | 18,966 | 3·2 | ... | 1,03,472 |
| | 1862–63 | 6,39,213 | ... | ... | 16,584 | 2·5 | ... | 1,20,056 |
| (8) Ponnie Anicut ... | 1857–58 | 47,481 | ... | ... | 2,610 | 5·4 | .. | 141 |
| | 1858–59 | 47,481 | ... | ... | 872 | 1·8 | ... | 4,330 |
| | 1859–60 | 47,762 | ... | ... | 1,795 | 3·7 | ... | 6,125 |
| | 1860–61 | 47,762 | ... | ... | 2,633 | 5·5 | ... | 8,758 |
| | 1861–62 | 57,763 | ... | ... | 2,324 | 4·0 | ... | 11,082 |
| | 1862–63 | 83,009 | ... | ... | 1,291 | 1·5 | ... | 12,373 |
| (9) Cheyar Anicut ... | 1857–58 | 12,088 | ... | ... | 850 | 7· | 5,782 | |
| | 1858–59 | 12,088 | 2,134 | 17·6 | ... | ... | 17,183 | |
| | 1859–60 | 12,088 | 635 | 5·2 | ... | ... | 17,818 | |
| | 1860–61 | 46,018 | ... | ... | 1,986 | 4·3 | 7,829 | |
| | 1861–62 | 47,518 | ... | .. | 1,575 | 3·3 | 6,254 | |
| | 1862–63 | 47,518 | ... | ... | 391 | 0·8 | 5,863 | |
| (10) Lower Coleroon Anicut in South Arcot. ... ... | 1857–58 | 1,16,469 | 3,34,528 | 287·2 | ... | ... | 45,66,589 | |
| | 1858–59 | 1,16,469 | 3,72,098 | 319·4 | ... | ... | 49,38,687 | |
| | 1859–60 | 1,16,469 | 3,30,158 | 283·4 | ... | ... | 52,68,845 | |
| | 1860–61 | 1,16,469 | 3,67,785 | 315·8 | ... | ... | 56,36,630 | |
| | 1861–62 | 1,16,469 | 3,98,316 | 341·9 | ... | ... | 60,34,946 | |
| | 1862–63 | 1,16,469 | 3,99,244 | 342·7 | ... | ... | 64,34,190 | |
| (11) Vellar Anicut .. | 1857–58 | 82,156 | 61,534 | 74·3 | ... | ... | 5,28,824 | |
| | 1858–59 | 82,156 | 69,017 | 84·0 | ... | ... | 5,97,841 | |
| | 1859–60 | 82,156 | 70,348 | 85·6 | ... | ... | 6,68,189 | |
| | 1860–61 | 82,156 | 81,944 | 100·3 | ... | ... | 7,50,133 | |
| | 1861–62 | 82,156 | 94,011 | 114·4 | ... | ... | 8,44,144 | |
| | 1862–63 | 82,156 | 1,01,803 | 123·9 | ... | ... | 9,45,947 | |
| (12) Ragavaiyen Channel | 1857–58 | 8,023 | 29,284 | 365·0 | ... | ... | 2,19,50[illegible] | |
| | 1858–59 | 7,443 | 30,012 | 403·2 | ... | ... | 2,4[illegible] | |
| | 1859–60 | 7,443 | 24,463 | 328·[illegible] | ... | ... | [illegible] | |
| | 1860–61 | 7,443 | 30,330 | 407·5 | ... | ... | | |
| | 1861–62 | 7,443 | 30,762 | 413·3 | ... | ... | | |
| | 1862–63 | 62,281 | 32,087 | 51·5 | ... | ... | | |

*Abstract Statement of Remunerative Works, &c.,*—(continued.)

| Name of Work. | Year. | Capital. | Revenue. | | | | Aggregate Financial Result. | |
|---|---|---|---|---|---|---|---|---|
| | | Estimated value of works. | Net income for the year after paying 4 per cent. interest on Capital. | | Net charge for the year, including payment of 4 per cent. interest on Capital. | | Profit. | Loss. |
| | | | Amount. | Rate per cent. on Capital. | Amount. | Rate per cent. on Capital. | | |
| | | Rs. | Rs. | | Rs. | | Rs. | Rs. |
| (13) Teruvadi Anicut ... | 1857–58 | 11,455 | 25,130 | 219·3 | ... | ... | 2,27,568 | |
| | 1858–59 | 11,455 | 24,975 | 218·0 | ... | ... | 2,52,543 | |
| | 1859–60 | 11,455 | 20,591 | 179·7 | ... | ... | 2,73,134 | |
| | 1860–61 | 11,455 | 30,403 | 265·4 | ... | ... | 3,03,537 | |
| | 1861–62 | 11,455 | 29,437 | 256·9 | ... | ... | 3,32,974 | |
| | 1862–63 | 11,455 | 30,788 | 268·7 | ... | ... | 3,63,762 | |
| (14) Vicravandi Anicut ... | 1857–58 | 13,716 | 1,583 | 11·5 | ... | ... | ... | 709 |
| | 1858–59 | 13,716 | 1.625 | 11·8 | ... | ... | 916 | |
| | 1859–60 | 13,716 | 2,531 | 18·4 | ... | ... | 3,447 | |
| | 1860–61 | 13,716 | 4,324 | 31·5 | ... | ... | 7,771 | |
| | 1861–62 | 13,716 | 4,508 | 32·8 | ... | ... | 12,279 | |
| | 1862–63 | 13,716 | 4,733 | 34·5 | ... | ... | 17,012 | |
| (15) Upper Coleroon Anicut in Tanjore | 1857–58 | 2,39,866 | 15,93,239 | 664·2 | ... | ... | 76,96,199 | |
| | 1858–59 | 2,39,865 | 17,50,902 | 729·9 | ... | ... | 94,47,101 | |
| | 1859–60 | 2,39,865 | 5,06,101 | 210·9 | ... | ... | 99,53,203 | |
| | 1860–61 | 2,39,865 | 5,19,003 | 216·4 | .. | ... | 1,04,72,206 | |
| | 1861–62 | 2,39,865 | 5.72,050 | 238·4 | ... | ... | 1,10,44,256 | |
| | 1862–63 | 2,39,866 | 6,37,533 | 265·7 | ... | ... | 1,16,81,808 | |
| (16) Lower Coleroon Anicut in Tanjore | 1857-58 | 2,25,190 | 5,802 | 2·6 | ... | ... | 1,61,111 | |
| | 1858-59 | 2,25,190 | ... | ... | 20,375 | 9·0 | 1,40,739 | |
| | 1859–60 | 2,25,190 | ... | ... | 2,793 | 1·2 | 1,37,945 | |
| | 1860–61 | 2,25,190 | 4,969 | 2·1 | ... | ... | 1,42,914 | |
| | 1861–62 | 2,25,160 | 10,308 | 4·5 | ... | ... | 1,53,222 | |
| | 1862–63 | 2,25,190 | 10,757 | 4·7 | .. | ... | 1,63,980 | |
| (17) Kaniempollicem Anicut ... | 1857–58 | 42,970 | ... | ... | 1,080 | 2·5 | ... | 31,218 |
| | 1858–59 | 42,970 | ... | ... | 1,681 | 3·9 | ... | 32,899 |
| | 1859–60 | 42,970 | ... | ... | 1,953 | 4·5 | ... | 34,852 |
| | 1860–61 | 42,970 | ... | ... | 2,230 | 5·2 | ... | 37,082 |
| | 1861–62 | 42,970 | ... | ... | 1,787 | 4·1 | ... | 38,869 |
| | 1862–63 | 42,970 | ... | ... | 1,248 | 2·9 | ... | 40,117 |
| (18) Yennamakal Dam ... | 1857–58 | 28,718 | 253 | ·8 | ... | ... | ... | 3,871 |
| | 1858–59 | 23,468 | 1,711 | 7·2 | ... | ... | ... | 5,045 |
| | 1859–60 | 22.851 | 499 | 1·9 | ... | ... | ... | 5,813 |
| | 1860–61 | 22,233 | ... | ... | 6,968 | 31·4 | ... | 13,399 |
| | 1861–62 | 21,615 | ... | ... | 4,541 | 21· | ... | 18,558 |
| | 1862–63 | 20,998 | 1,489 | 7· | ... | ... | ... | 17,686 |
| (19) Nundyar Anicut ... | 1861–62 | 46,850 | 2,616 | 5·5 | ... | ... | 9,170 | |
| | 1862–63 | 46,850 | 434 | 0·9 | ... | ... | 9,604 | |
| [illegible]st Canal | 1858–59 | 4,97,417 | 1,946 | ·3 | ... | ... | 4,39,708 | |
| | 1859–60 | 4,97,417 | ... | ... | 7,576 | 1·5 | 4,32,132 | |
| | 1860–61 | 4,97,417 | ... | ... | 8,867 | 1·8 | 4,23,265 | |
| | 1861–62 | 5,04,091 | ... | ... | 4,421 | 0·8 | 4,18,844 | |
| | 1862–63 | 5,04,[illegible] | 2,483 | ·4 | ... | ... | 4,21,231 | |

*Abstract Statement of Remunerative Works, &c.,*—(continued.)

| Name of Work. | Year. | Capital. | Revenue. | | | | Aggregate Financial Result. | |
|---|---|---|---|---|---|---|---|---|
| | | Estimated value of works. | Net income for the year after paying 4 per cent. interest on Capital. | | Net charge for the year, including payment of 4 per cent. interest on Capital. | | Profit. | Loss. |
| | | | Amount. | Rate per cent. on Capital. | Amount. | Rate per cent. on Capital. | | |
| | | Rs. | Rs. | | Rs. | | Rs. | Rs. |
| (21) Thaddapully Channel, in the District of Coimbatore ... | 1862–63 | 24,898 | ... | ... | 3,928 | 15·7 | ... | 19,021 |
| (22) Calingaroyen Channel, in the District of Coimbatore ... | 1862–63 | 15,284 | ... | ... | 8,301 | 54·3 | ... | 35,821 |
| (23) Arakencottah Channel, in the District of Coimbatore ... | 1862–63 | 11,126 | ... | ... | 2,074 | 18·6 | ... | 2,074 |

## REMARKS.

The net income has been calculated by assuming, as the standard of comparison, the average of the revenue derived from the land capable of irrigation by the Anicut for five years previous to the construction of the work, and setting down all excess above that average, less the cost of repairs, interest on capital, and other charges as the increase due to the Anicut in subsequent years. In thus fixing the income, other causes independent of irrigation, such as improved cultivation, increase of population, &c., have not been taken into account.

Further, this net annual profit includes the assessment of the land, as well as the value of the water actually supplied, and attributes all increase in the land revenue to the work, being so far a more favourable mode of calculation than is strictly correct; but on the other hand, it leaves out of account all increase in other sources of revenue, viz., Salt, Abkarry, &c., though these may be affected by the improved condition of the people, consequent on the more profitable character of irrigated cultivation.

Where a work has been kept in proper repair, and all the maintenance and conservancy charges added to such expenses, no deduction has been made on account of deterioration by wear and tear from the capital expended in the work.

*Printed and Published for the Government of India, by* O. T. Cuttee, *at the Military Orph*

No. 2.

# The Gazette of India.

**Published by Authority.**

CALCUTTA, SATURDAY, JANUARY 14, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 7th January 1865, and is hereby promulgated for general information:—

ACT No. 1 OF 1865.

*An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.*

Preamble.

WHEREAS it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab to extend to Non-Regulation Provinces under the immediate administration of the Government of India, or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:—

Governor-General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

**1.** From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

**2.** From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the Territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories respectively the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

**3.** Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension shall direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of inconsistent Rules.

**4.** From the date of any such extension, so much of any Rule having the force of of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

**5.** This Act shall be called "The Acts and Regulations' Extension Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th January 1865, and was referred to a Select Committee.

No. 23 OF 1864.

*A Bill to legalize under certain circumstances the remarriage of Native Converts to Christianity.*

Preamble.

Whereas it is expedient to legalize under certain circumstances the remarriage of Native Converts to Christianity, deserted or repudiated, on religious grounds, by their wives or husbands; and to relieve minis-

ters of religion from the penalties to which they are now liable for solemnizing such remarriages; It [illegible] enacted as follows:—

Short title.

**1.** This Act may be cited as "The Remarriage of Converts' Act, 1865."

Commencement of Act.

**2.** This Act shall commence and take effect on and from the first day of December 1865.

**3.** In this Act—

Interpretation of terms.

"Native Husband." "Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall neither be a Christian nor a Jew.

"Native Wife." "Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall neither be a Christian nor a Jewess.

"Native Law." "Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians and Jews.

"Month" and "year." "Month" and "year" shall respectively mean month and year according to the British calendar.

"Number." And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Convert deserted by his wife on religious grounds may sue for conjugal society.

**4.** If a Native Husband change his religion for Christianity and if solely in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

**5.** If a Native Wife change her religion for Christianity and if solely in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Court in which suit shall be brought.

**6.** If the respondent, at the time of the commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

**7.** The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition shall bear a stamp of ten rupees, and may be amended by permission of the Court.

On petition, citation issued to respondent to appear and answer.

**8.** A copy of the [illegible]tion shall be served upon the respondent, and the Court thereupon issue a citation under the seal of the Court signed by the Judge, enjoining the respondent to appear in Court on a day to be named in such citation, not less than one month after the service of a copy thereof on the respondent, and answer whether she or he refuses to cohabit with the petitioner.

Form of citation.

**9.** The citation shall be in the form in the second schedule to this Act or as near thereto as the circumstances of the case will allow.

Service of citation.

**10.** A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Procedure where respondent does not appear.

**11.** If the respondent shall not appear personally in obedience to such citation, and on every other occasion on which the respondent's appearance shall be required under the provisions of this Act, she or he shall be liable to punishment under the hundred and seventy-fourth Section of the Indian Penal Code, and the Court may authorize the Magistrate of the District to proceed under such Section against the respondent.

Points to be proved on appearance of parties.

**12.** On the day fixed in the citation the parties shall appear in Court, and the following points shall be proved:—

(1.) The identity of the parties:

(2.) The marriage between the petitioner and the respondent:

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:

(4.) The desertion or repudiation of the petitioner by the respondent:

(5.) That such desertion or repudiation was solely in consequence of the petitioner's change of religion;

(6.) And that such desertion or repudiation had continued for the six months next before the commencement of the suit.

First interrogation of respondent.

**13.** The Judge, if such points be proved to his satisfaction, shall thereupon ask the respondent whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal.

Interrogations may be public or private.

**14.** Such interrogation and every other interrogation mentioned [illegible] Act may, at the [illegible] the Judge, take [illegible] Court or in his private room. If any [illegible] take place in open Court [illegible] may, [illegible]ng as it shall continue, e[illegible] Court [illegible] such persons as he shall [illegible]clude.

**15.** If the respondent, in [illegible]ver to the Judge's interr[illegible]ies, shall refuse to cohab[illegible] the petitioner, and all[illegible] the sole ground for such [illegible]sal, that the petitioner has [illegible] his or her religion, th[illegible] Judge shall make an order adjourning the case [illegible] one month, and directing that in the interim the parties shall, at such place and time as he shall deem convenient, have a private interview of not less than one hour in length, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal. Such interview shall be subject to any conditions as to privacy which the Judge shall think fit: Provided that no condition which might interfere with the ascertainment of the respondent's wishes respecting such refusal shall be imposed upon such interview.

Adjournment for a month if respondent refuses to cohabit on account of petitioner's conversion.

Parties in the interim to have a private interview.

**16.** At the expiration of such adjournment, the parties shall again appear in Court, and if the respondent, on being interrogated by the Judge, again refuse to cohabit with the petitioner, and allege, as the sole ground for such refusal, the petitioner's change of religion, the suit shall be adjourned for one year.

Second interrogation of respondent.

Adjournment for a year.

**17.** At the expiration of such adjournment the parties shall again appear in Court, and the petitioner shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to.

Point to be proved on expiration of adjournment.

**18.** In any such suit, proof of cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was solely in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of the marriage, and the desertion or repudiation of petitioner in consequence of conversion.

**19.** The provisions of the Code of Civil Procedure, as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

**20.** If the points mentioned in the twelfth and seventeenth Sections of this Act shall be proved to the satisfaction of the Judge, he shall adjourn the suit for one month, and direct that in the interim the parties shall have a[illegible]er interview of such length and subject to [illegible]ditions as he shall think fit.

On proof of the requisite points, suit to be adjourned for a month and parties to have another interview.

[illegible] the expiration of such adjournment the parties shall again appear in Court; and if the respondent on [illegible]ing interr[illegible]ted by the Judge again refu[illegible] to cohabit with the petit[illegible], and allege the petitioner[illegible] conversion as the sole ground for such refusal, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that it shall be lawful f[illegible] the petitioner to mar[illegible]in. Provided [illegible] shall not be lawful for [illegible] petitioner so to m[illegible] any person standing in such a degree of relationship to the respondent as that, if but one of them had been a male, such person and the respondent could not have intermarried.

[illegible] of ad-
[illegible] re-
[illegible] to
[illegible] to
[illegible]eti-
[illegible]e.

**22.** If there shall be children of the petitioner and respondent, within the age of three years, in the sole custody or control of their father, or of any person by his authority, it shall be lawful for the Judge, on the application of their mother, to direct in the decree or by a subsequent order that such children shall be delivered to, and remain in, her custody until attaining such age, subject to such regulations as the Judge shall deem convenient and just.

The parties' children under the age of three years may be delivered to their mother on her application.

**23.** If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit, and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

**24.** If at any time after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall recommence at the stage at which it had arrived immediately before the passing of such decree; and after the proofs, interrogations, interviews, and adjournments which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature and subject to the proviso mentioned in the twenty-first Section of this Act.

Revival of suit after such dismissal.

**25.** If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Petitioner's cruelty or adultery to bar the suit.

**26.** If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dis-

Male petitioner's cohabitation with one of several wives to bar the suit.

missing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this [illegible]

Male petitioner's remarriage not to affect status or rights of his Native wife or children.

**27.** [illegible] the petitioner, [illegible] a male, shall marry again [illegible] the provisions of this Act, such remarriage shall not operate to deprive the respondent or her children (if any) by him, of the status which they would have had as his lawful wife or legitimate children, or (subject to the provisions hereinafter contained) of any right or interest which she or they would then have had, according to the Native law applicable to her or them, by way of maintenance, dower, inheritance, or otherwise, in case the petitioner had not so married again as aforesaid.

Rights of Native wife in case she and remarried Convert's wife survive him.

**28.** If any such petitioner predecease the respondent and the woman whom he shall have so married, the respondent (subject to the provisions hereinafter contained) shall succeed, according to the Native law applicable to her, to such interest (if any) in the whole or part of the petitioner's property as she would have been entitled to had she been his senior widow or one of his widows as the case may be.

Intercourse between remarried petitioner and the respondent during remarriage to be deemed adulterous.

**29.** If during any such remarriage, intercourse take place between the petitioner and the respondent, such intercourse shall be deemed adulterous, and the children (if any) born in consequence thereof shall be illegitimate.

After decree permitting petitioner's remarriage, respondent may remarry.

**30.** After the passing of a decree permitting any such remarriage and the dismissal of the appeal (if any) against such decree, it shall be lawful for the respondent also to remarry, and the issue of such remarriage shall be legitimate, any Native law to the contrary notwithstanding. But upon the respondent's remarriage, all rights and interests which she or he may then have in the petitioner's property by way of maintenance, inheritance, or otherwise, shall cease and determine as if the respondent had then died; and the petitioner, or, if the petitioner be dead, the persons entitled to such property on the respondent's death, shall thereupon succeed to the same.

On such remarriage respondent's claim on the petitioner's property to cease.

Minister of religion not bound to celebrate remarriage legalized by this Act.

**31.** The celebration of any remarriage legalized by this Act shall not be obligatory on any minister of religion.

Power to Court to award alimony.

**32.** If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of [illegible] life as the Court shall think just, and havin[illegible] of th[illegible]rd to the condition and station in life of the [illegible]ties. Any allowance so ordered shall ceas[illegible] the time of any subsequent marriage [illegible] the wife.

Appeal against orders and decrees under this Act.

**33.** No appeal shall lie against any order or decree made or passed by any Court under the provisions of this Act to any Court to which an appeal would lie against an order or decree made or passed by the former Court in any Civil case. Every such appeal shall be subject to the rules relating to Regular Appeals contained in the Code of Civil Procedure, so far as such rules are applicable to the case.

Extent of Act.

**34.** This Act shall extend to all the territories that are or shall become vested in her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

*Form of Petition.*

Stamp
Rs. ten

To the Judge of the Civil Court of .

The day of 18 .

The petition of A. B. of

Sheweth:—

1. That your petitioner was born on or about the day of 18 .

2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at .

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 ; and that there are now living children, and no more, of such marriage, aged respectively and years.

5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of .

6. That on the day of [illegible] *least six months prior to the date of the* [illegible] said C. D. deserted your petitioner [illegible] since re[illegible]ed cohabitation with him [illegible]

7. T[illegible] such desertion was s[illegible] quence [illegible] your petitioner's sa[illegible] religion.

8. That there is no collusion [illegible] connivance between your petitioner and the [illegible]D.

Your petitioner therefore prayeth [illegible] your Honour will order the said C. D. to [illegible] habit with your petitioner, or declare that it [illegible] lawful for your petitioner to marry again.

A. B.

*Form of Verificatio[illegible]*

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

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THE SECOND SCHEDULE.

*Form of citation.*

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you, the said C. D., has filed his petition against you in the Civil Court of praying that you may be ordered to live and cohabit with him, or that it may be declared that it shall be lawful for him to marry again, and alleging that you the said C. D. have deserted him for six months solely in consequence of his having changed his religion for Christianity: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing you will be liable to punishment under the hundred and seventy-fourth section of the Indian Penal Code.

Dated the day of , 18

(Signed) E. F.

Judge of the Civil Court of

*Endorsement to be made after service.*

This citation was duly served by G. H. on the within-named C. D. of at on the day of , 18 .

(Signed) G. H.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to legalize under certain circumstances the remarriage of Native Converts to Christianity, whose wives or husbands have deserted or repudiated them exclusively on religious grounds. The question has been before the Government of India for a very long time, but the settlement of it has been delayed, chiefly on account of the great difference of opinion which has proved to exist between the religious bodies and persons most strongly interested in the matter as to the circumstances under which the remarriage of a Convert, before the death of the first wife or husband, may be considered permissible.

The present Bill attempts to solve the difficulty by an interposition of the secular power, leaving m[illegible]naries and ministers of religion to act on t[illegible] views of duty in remarrying their Con-v[illegible] secular character of the measure is [illegible]e recital in the Preamble, that it is [illegible]pedient to impose penalties on minis-[illegible] solemnizing such marria[illegible], and by [illegible]hat no ministe[illegible] of relig[illegible] shall be [illegible]avail himself of the liberty [illegible]ermit-t[illegible].

The persons entitled to relief under the Bill are defined as "Native Husbands," and "Native Wives." A "Native Husband" is a married man domiciled in India, [illegible] nor a Jew, who shall [illegible] the [illegible] sixteen years. A "Nat[illegible]e" is correspo[illegible]gly defined, except that [illegible] limit of age is thirteen years. It may be convenient, in describing the nature of the measure, to confine the statement to the case of a Native Husband.

The ground of relief is, in conformity with the draft Bill prepared by Sir Barnes Peacock, the "desertion or repudiation" of the Native husband by the Native wife, when such desertion or repudiation has taken place solely in consequence of the husband's having changed his religion for Christianity. The Bill further follows Sir Barnes Peacock's draft in providing (Section 18) that the wife's refusal or voluntary neglect to cohabit with her husband after his change of religion shall be sufficient evidence of the desertion or repudiation, and also, unless some other cause be shown, that the desertion or repudiation was in consequence of the husband's change of religion.

The mode of relief is by suit for conjugal society. In the course of the suit, many separate interrogatories will be addressed to the Native wife by the Judge for the purpose of conclusively ascertaining her refusal to join her husband, and various private interviews are provided for as means of conciliation. It is only after all these efforts to overcome the wife's distaste have failed, that the Judge may make a decree permitting the husband to remarry.

The desertion or repudiation must have continued for six months before the commencement of the suit. On the day fixed in the citation for the hearing, the respondent must appear personally, and the petitioner must prove the identity of the parties, the marriage, the age of himself and of his wife, the desertion or repudiation, its cause, and the fact that it occurred six months before the commencement of the suit and has continued ever since. These points being ascertained, the Judge (who will be a High Court Judge in the Presidency Towns, and a Zillah Judge in the Mofussil) will interrogate the respondent, but not necessarily in open Court. If the respondent allege the petitioner's change of religion for Christianity as the sole reason for her declining to cohabit with him, the case will be adjourned for a month, and provisions will be made for a private interview between the husband and wife, subject only to such conditions as to privacy as may not interfere with the free will of the latter.

At the end of the month the parties will reappear, and the wife will be further interrogated. If she still persist in her refusal, there will be a further adjournment for a year, and at the close of the year, the petitioner will be bound to prove that the desertion or repudiation has continued down to that time. The respondent will then be further interrogated, and arrangements will be made for a second interview. Should this still result in the wife's refusal to join her husband, the Judge will at length make the decree before-mentioned legalizing a remarriage.

The whole time necessarily occupied by these proceedings will be twenty months. Taking into account the preparations for the suit and the time required for the hearings, the entire interval between repudiation and remarriage will probably be about two years. These periods of time are,

however, only inserted in the Bill *pro formâ*, and can be altered in Committee. The further provisions of the Bill which call for special notice are the foll[illegible]

Cruel[illegible] dultery [illegible] Act [illegible] ainst the petitioner w[illegible] the suit.

The children of the first [illegible] iage retain their personal and proprietary rights, and, if under the age of three years, may remain in their mother's custody until attaining that age. The wife retains the status which she would have had as lawful wife, and forfeits no right to maintenance, dower, or inheritance.

The respondent (the Native wife) is allowed to remarry after the decree permitting the petitioner's remarriage (Section 30); but if she remarries, she forfeits all rights or interests she may have in the petitioner's property.

If the wife has not sufficient property to maintain herself, the Judge may award alimony to her; and may also order the husband to provide her with funds to prosecute or defend the suit, if she be in need of them.

A Convert married to several Native wives will have to make them all respondents in the suit.

The provisions of the Bill with reference to Native wives deserted or repudiated by their husbands on religious grounds are the converse of those just recited, with the exception of the last.

The remaining provisions are of a technical character.

HENRY S. MAINE.

*The 29th December* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department (Legislative).*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd December 1864, and was referred to a Select Committee, with instructions to make their report thereon in three weeks :—

No. 27 of 1864.

*A Bill to amend Act XXV of* 1864 *(to provide for the solemnization of Marriages in India of persons professing the Christian Religion).*

Preamble.

Whereas it is expedient to amend Act XXV of 1864 *(to provide further for the solemnization of Marriages in India of persons professing the Christian Religion)*; It is enacted as follows :—

Emendation of Act XXV of 1864, Sec. 7.

**1.** From and after the passing of this Act, for the following words in the seventh Section of Act XXV of 1864 :—"By a Clergyman of the Church of England according to the rites, rules, ceremonies and customs of that Church," shall be substituted the following words :—"By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies, and customs of the Church of which he is a minister," and such words shall form portion of the said Section.

Act XXV [illegible] Section 24, not [illegible] to Clergyman [illegible] Church [illegible] nsed to solemnize [illegible] ages between 7 P. M. [illegible] d 6 A. M.

**2.** The pr[illegible] ions of the twenty-fourth Section of Act XXV of 1864 shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a gene[illegible] or special license in that behalf from the Roman Catholic Bishop of the Diocese in which such marriage shall so be solemnized, or from such person as the said Bishop shall have authorized to grant such license. And the said twenty-fourth Section shall be read as if the foregoing part of this Section were added thereto as a proviso.

Registration of marriages solemnized by a Clergyman of the Church of Rome.

**3.** Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese; and the twenty-fifth Section of Act XXV of 1864 shall be construed as if the former part of this section were inserted in the same Act next after its twenty-sixth Section.

Part V of Act XXV of 1864 not to apply to marriages between Roman Catholics.

**4.** From and after the passing of this Act, Part V of Act XXV of 1864 shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate marriages (if any) previously contracted between Roman Catholics under the provisions of the said Part.

Addition to Act XXV of 1864, Section 52.

**5.** The following words shall be added to and shall form part of the fifty-second Section of Act XXV of 1864 :—"or to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome when he shall have received such general or special license in that behalf as hereinbefore mentioned."

Insertion in Act XXV of 1864, Section 55.

**6.** In the fifty-fifth Section of Act XXV of 1864 after the words "Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church," shall be introduced the following words :—"or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church;" and such words shall be read as part of the same Section.

Addition to Act XXV of 1864, Section 60.

**7.** To the sixtieth Section of Act XXV of 1864, the following words shall be added: The words "Church of Rome" and "Roman Catholic," wherever used in this Act, shall mean and apply to the Church which regards the Pope of Rome as its spiritual head.

This Act and Act XXV of 1864, to extend to Straits' Settlement.

**8.** The provisions of this Act and of Act [illegible]V of 1864 as amen[illegible] this Act shall e[illegible] e territory subject[illegible] ernment of the [illegible] tlement[illegible] and the [illegible]overnor of suc[illegible] for the [illegible]e being shall have auth[illegible] license [illegible] ministers of religion to [illegible] riages within the territories subje[illegible] ernment.

**9.** The Supreme Court [redacted] ll be
Straits' [redacted] rt is
have p[redacted]
punish[redacted] an-
of 18[redacted] 864
within [redacted] orm
Settlement; and the charge [redacted]

Supreme Court in Straits' Settlement to try offences punishable under Act XXV of 1864.

Quarterly Returns
of
MARRIAGES,
for
The Archdeaconry of ... { *Calcutta,* *Madras,* *Bombay,*

I, Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* as made and transmitted to me for the Quarter commencing the *First* day of *January* ending the *Thirty-first* day of *March,* in the Year of Our Lord One Thousand Eight Hundred and Sixty-five.

*Signature of Registrar*
Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay.*

MARRIAGES solemnized at { *Allahabad,* *Barrackpore,* *Bareilly,* *Calcutta, &c., &c.*

| When married. | | | Names of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of marriage. | Father's Name and Surname. | By Banns or License. | Signatures of the Parties. | Signatures of two or more Witnesses present. | Signature by whom married. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year. | Month. | Day. | Christian. | Surname. | | | | | | | | | |
| | | | | | | | | | | | | | |

## STATEMENT OF OBJECTS AND REASONS.

[redacted]he principal object which the present Bill seeks to attain, is the relief of the members of the C[redacted] Rome residing in India from the operation of certain provisions in Act XXV of 1864 w[redacted]ted to have inflicted hardship upon them.

[redacted] Bill also provides that the operation of Act XXV of 1864 shall extend to the territories [redacted] Government of the Straits' Settlement, and indicates the manner in which offences com-[redacted]t that Act in the said terri[redacted]ies shall be disposed of.

H. L. ANDERSON.

[redacted]*nber* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department (Legislative).*

[illegible]

The [illegible]
are add[illegible]
Entrée :
The [illegible]

The [illegible]
" of Belgium.
" of Brazil.
" of Bremen.
" of Denmark.
" of Hamburg.
" of Hanover.
" of Italy.
" of Netherlands.
" of Oldenburg.
" of Prussia.
" of Sweden and Norway.
The Vice-Consul of Greece.
" " of Spain.

By Command,
E. C. IMPEY, *Captain*,
*Mily. Secy. to the Viceroy.*

MILITARY SECRETARY'S OFFICE;
CALCUTTA,
*The 12th January* 1865.

No. 88 A.

*Fort William, the 5th January* 1865.

NOTIFICATIONS.

Mr. Philip Sandys Melvill, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years, from the date of embarkation.

No. 200 A.

*The 9th January* 1865.

The Governor General in Council is pleased to invest Tezie Sing, Patel of Baitool, in the Central Provinces, with the powers of a Subordinate Magistrate of the Second Class, as described in Chapter II, Section 22 of Act XXV of 1861, to be exercised within the Pergunnah of Baitool.

No. 218.

Lieutenant G. H. Trevor, R. A., officiated as Inspector of Schools, Eastern Circle, Central Provinces, from the 12th August 1862 to the date of this Notification, and will continue to officiate in that appointment till further orders.

No. 222 A.

*The 10th January* 1865.

The Governor General in Council is pleased to appoint Assistant Surgeon John Reid, of the Bengal Establishment, to be Civil Assistant Surgeon of the Bhundara District, in the Central Provinces.

No. 250.

*The 11th January* 1865.

Dr. J. P. Cromarty, Civil Surgeon of Tavoy, has received one month's preparatory leave from the 22nd of December, to enable him to appear before a Medical Committee in Calcutta.

251.

[illegible] two years is granted to [illegible] Surgeon, Tavoy, under [illegible]enanted Absentee Rules, [illegible] he may avail himself of

No. 255.

[illegible]. Dawson, Assistant Chaplain [illegible]tablishment, has obtained leave [illegible]gent private affairs for eleven months, from the date of the embarkation of Her Majesty's 71st Regiment, to which he is at present attached.

No. 300.

The Governor General in Council has been pleased to grant to Dr. W. H. Clarke, Recorder of Rangoon and Moulmein, leave of absence for 15 months, on medical certificate, and to appoint Mr. J. Pitt Kennedy to be Recorder on the full salary of the appointment during the absence of Dr. Clarke.

No. 359.

*The 12th January* 1865.

Captain C. R. Shaw, appointed a Cantonment Magistrate of Lucknow by orders No. 6564, dated the 16th ultimo, assumed charge of his office from Captain H. S. V. Fisher on the afternoon of the 22nd idem.

Under the provisions of Section 3 of Act XXII of 1864, the Governor General in Council is pleased to invest the following Officer with the powers of a Magistrate :—

Captain C. R. Shaw, within the limits of the Cantonment of Lucknow.

Under the provisions of Section 6, of Act XXII of 1864, the Governor General in Council is pleased to sanction the Establishment of a Court of Small Causes, within the limits of the Cantonment of Lucknow, for the trial of suits not exceeding Rs. 500 in value.

Under the provisions of Section 44 of Act XXII. of 1864, the Governor General in Council is pleased to empower the Judicial Commissioner of Oudh to exercise, in respect to the Court of Small Causes within the Cantonment of Lucknow, the powers vested in the Sudder Court by the provisions of Act XLII of 1860.

No. 360.

Mr. T. Garrett, Post Master of Bombay, is transferred to Madras, and Mr. Stuart, Post Master of Madras, is transferred to Bombay.

No. 361.

The Governor General in Council is pleased to appoint Dr. S. C. Townsend, of the Bengal Medical Establishment, to be Civil Surgeon of Nagpore, in the room of Dr. Hende, who has obtained [illegible]rlough.

No. 363.

The [illegible]vices of [illegible]ssistant Surgeo[illegible] Bensley, [illegible]M. D., Civil Surgeon of [illegible] placed at the disposal of the [illegible] Bengal.

No. 366.

The Governor General in Cou[illegible] pleased to attach Mr. T. N. Wilson, of t[illegible]il Service, reported qualified for the P[illegible]ce, to the Bengal Division of the Presidency o[illegible]illiam.

No. 367.

The Governor General in Coun[illegible]s pleased to attach Mr. McAuliffe, of the Civil [illegible]rvice, reported qualified for the Public Service, to the North-Western Provinces, the Punjab, and Oudh.

The services of Mr. McAuliffe, Junior Civil Servant, are placed at the disposal of the Foreign Department for employment in the Punjab.

No. 368.

The Governor General in Council is pleased to attach Mr. J. C. Williams, of the Civil Service, reported qualified for the Public Service, to the North-Western Provinces, the Punjab, and Oudh.

No. 369.

Mr. J. C. Williams, Junior Civil Servant, having obtained a Certificate of High Proficiency in Hindi, has been presented with the authorized donation of Rs. 800.

No. 370.

Mr. J. R. Hallett, Junior Civil Servant, having, within the prescribed interval after arrival in India, passed examinations in two languages, has been presented with the authorized donation of Rs. 800.

No. 371.

*The 13th January* 1865.

The Governor General in Council is pleased, under Section 11, Act XI of 1863, to extend the provisions of the said Act to the Province of Oudh.

No. 372.

Under the provisions of Section 6 of Act XXII of 1864, the Governor General in Council is pleased to sanction the establishment of a Court of Small Causes within the limits of the Cantonment of Fyzabad, for the trial of suits not exceeding Rs. 500 in value.

Under the provisions of Section 44 of Act XXII of 1864, the Governor General in Council is pleased to empower the Judicial Commissioner of Oudh to exercise, in respect to the Court of Small Causes within the Cantonment of Fyzabad, the powers vested in the Sudder Court by the provisions of Act XLII of 1860.

No. 373.

The Right Reverend the Lord Bishop of Calcutta has granted one month's privilege leave to the Reverend C. S. P. Parish, Chaplain of Moulmein, from the date on which he may avail himself of it.

No. 374.

[illegible]ge leave of absence for two months, with [illegible] the date on which he may avail himself [illegible]nted to Doctor G. Y. Hunter, Civil [illegible] Nimar.

No. 376.

[illegible]nor General in Council is pleased to [illegible] following addition to be made to List [illegible] No. II, published under date the 29th September 1854, of parties authorized to send letters and official *Gazettes bonâ fide* and exclusively on the Public Servi[illegible]lating to the business of their respective d[illegible] [illegible]ent of postage, but on[illegible] [illegible]uthori[illegible]nafter named, viz. :—

The Superintendent of Navigation, Ganges Canal ... } to { Executive Engineers of the Ganges Canal; The Controller and Examiner, Public Works Department; and Collectors of Districts in the North-Western Provinces.

R. N. Cust,

*Offg. Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

Judicial.

No. 8.

*Fort William, the 10th January* 1865.

Captain J. G. Bell, Deputy Commissioner of South-West Berar, is invested with the powers described in Section I of Act XV of 1862.

Lieutenant Huddleston, Deputy Commissioner of South-East Berar, is invested with the powers described in Section I of Act XV of 1862.

No. 13.

Captain C. T. O. Mayne, an Assistant Commissioner in the Hyderabad Assigned Districts, is invested with the powers of a Magistrate under Section 22 of Act XXV of 1861.

No. 15.

*The 11th January* 1865.

The following Officers at present exercising the powers of a Magistrate in the Hyderabad Assigned Districts, are invested with authority to decide cases under Act IX of 1860 :—

Captain J. Allardyce, Deputy Commissioner, East Berar.

Mr. J. G. Cordery, Officiating Deputy Commissioner, West Berar.

Captain J. G. Bell, Deputy Commissioner, South-West Berar.

Lieutenant Huddleston, Deputy Commissioner, South-East Berar.

Captain J. T. Bushby, 1st Class Assistant Commissioner.

Lieutenant H. C. A. Szczepanski, 1st Class Assistant Commissioner.

Mr. C. Hordern, 2nd Class Assistant Commissioner.

Lieutenant K. J. L. Mackenzie, 2nd Class Assistant Commissioner.

Lieutenant J. Fitzgerald, 2nd Class Assistant Commissioner.

Lieutenant R. Bullock, 3rd Class Assistant Commissioner.

Captain C. T. O. Mayne, 3rd Class Assistant Commissioner.

Mr. C. W. Davies, Extra Assistant Commissioner, 1st Class.

Mr. J. H. Burns, Extra Assistant Commissioner, 2nd Class.

—

R[illegible]

No. [illegible]

*The 10th January 18[illegible]*

The following "Revised Rules for the sale of Waste Lands in Oudh" are published for general information :—

By order of His Excellency the Viceroy and Governor General in Council,

C. U. AITCHISON,
*Under Secy. to the Govt. of India.*

*Revised Rules for the Sale of Waste Lands in Oudh.*

PREAMBLE.—Under the Native Government, all unassessed waste lands in the Province were held to be the property of the State, and the right has devolved on the British Government, and been recognized and acted on by it since annexation. Under both Governments such lands have been made the subject of grants by the ruling power, and the rights of pasturage, of wood cutting, of gathering the jungle produce, &c., in waste tracts large enough to yield a tolerable rent, have been and still are leased, on the part of Government, to the highest bidders, or other parties selected for good reason. It is evident, then, that all the unassessed waste land in the Province might be sold by Government without furnishing legal ground of objection to any one, but it is expedient to leave a certain portion of waste to the villages bordering on it, and to reserve, in the hands of Government, certain tracts known to produce timber or other valuable products. In the execution of the following rules, then, it must be recollected that to every village bordering on unassessed waste a portion of such waste must be allotted, which, at the regular survey and settlement, will be included in its limits, and assessed with it, according to the principles and rules of the settlement. Mr. Wingfield has ruled, generally, that 300 acres is not too large an area to be so allotted, or, in other words, that 300 acres might be given, where the size and circumstances of a village seemed to require it. The demarcation officers, after this ruling, divided any unassessed waste, found in otherwise cultivated tracts, between the villages bordering on it, giving to each a share proportionate to its area, and the principle seems to have met with very general approval. But this principle, however applicable to the districts already demarcated, in which cultivation is the rule and waste the exception, will not suit those districts where the waste is of great extent in proportion to the cultivation. Mr. Wingfield's ruling, also, does not afford assistance in deciding what is a proper proportion of waste to allot to villages. The Officiating Chief Commissioner considers that, on this point, the following rule may be safely adopted, viz., that to every village bordering on an unassessed waste tract shall be allotted a portion of waste adjoining it equal to its own area. In carrying out this rule, it will occasionally happen either that no surplus land will remain available for sale, or only a very small portion, but the sale of any such small surplus portions is unadvisable, and, as a supplement to the above rule, the Officiating Chief Commissioner directs that [illegible] a surplus is less than 500 acres, it shall no[illegible] a portion of an allotment for sale, but be co[illegible]d divisible among the bordering villages, in [illegible]tion to their areas. Where the surplus ex[illegible] 500 [illegible] may be allotted for sale, if applie[illegible] n this way the interests of the State will n[illegible]uffer, for, in the end, it will derive its just reve[illegible] from the now unassessed waste to be included i[illegible]he Settlement of the villages to which it may be allotted. Nor can intending settlers justly complain of being deprived of the chance of purchasing small detached portions of land for which the competition of the neighbouring land-owners would certainly compel them to pay a price above its real value. On the other hand, by this plan, all cause will be removed for the ill-feeling certain to be originated among neighbouring landlords and tenants were the whole of the waste land disposed of to a stranger, or even to one person only among themselves.

With regard to Forest land, 68 such tracts, lying west of the Korealee River, have already been demarcated, and the remainder, to the east of the river, which are believed to be both more numerous and of greater extent than the others, will, it is hoped, be demarcated before May 1863. As the maps are got ready they will be published, and, in the mean time, no allotment for sale will be made within the general tract over which these forests are scattered. With the above exception, all unassessed waste lands in Oudh are available for purchase under the following rules, until Government gives notice of intention to make any alteration on the same.

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RULES.

1. When the unassessed waste is in large tracts, the lots will not exceed 5,000 acres, and each must be in one continuous and compact piece.

2. When it consists of detached portions, exceeding 500 but under 5,000 acres, each such portion shall be considered and treated as a separate lot. If any such portion exceeds 5,000, but is less than 10,000 acres, it will be divided into two lots, as nearly equal as possible. Where it exceeds 10,000 acres it comes under Rule 1.

3. In making allotments, under either of the above rules, care must first be taken to allot to each bordering village an extent of waste equal to its own area (including village site, cultivated and fallow land, with intervening patches of waste), and if the surplus left after this process does not exceed 500 acres, it will not be available for sale.

4. The available unassessed waste lands will hereafter be surveyed and divided off into lots not exceeding 5,000 acres each. These lots will be numbered and maps published for the benefit of intending purchasers. In the mean time, any person wishing to purchase available waste must define, as accurately as he can, in his application on the subject to the Deputy Commissioner of the district, the tract he wishes to purchase, naming the villages bordering thereon, if any, and their si[illegible]tion in regard to it, and stating the area est[illegible] to be available after the deductions noted [illegible]

5. On receipt of such an applic[illegible] Deputy Commissioner will proceed to i[illegible]

1*stly*.—Whether the lands applied f[illegible] unassessed waste.

2*ndly*.—Whether they have been [illegible] any prior existing grant or lot.

*3rdly.*—Whether in all probability the surplus available after deductions will exceed 500 acres.

If the result of his enquiry leads him to conclude that the lands are not unassessable, or that they have been included in a prior existing grant, he will reject the application, leaving applicant to appeal to the Commissioner. If he thinks the surplus available will, in all probability, not exceed 500 acres, he will give the applicant the option of having the survey and measurement necessary to decide the point made at applicant's expense.

6. When the Deputy Commissioner is satisfied that, as regards all these points, the land is available for sale, he will cause it to be surveyed (provided this has not been already done under the last clause of the preceding rule), measured, demarcated, and mapped, having first realized from applicant the cost of such processes, at the rate of Rs. 4 per 100 acres, and the charges of advertisements and other contingencies at Rs. 20 per lot.

7. On completion of the survey, mapping, &c., the Deputy Commissioner will cause the lot to be advertized for sale in two successive numbers of the Allahabad *Government Gazette*, and of the two principal papers, English and Native, published in Lucknow. Notices of the intended sale shall also be hung up in the offices of the Divisional Commissioner and Deputy Commissioner himself, (and to each of these a copy of the Map of the lot will be attached,) and in each Tehseel Cutcherry of the district; and such notices shall also be served at the Cutcherries of the principal Talookdars or Zemindars, among the villages bordering on, or nearest to, the land proposed to be sold, and lastly, some responsible officer assembling the Choukeedars and other officials of the said villages, on the land itself, shall orally give notice of the sale.

8. The advertisements and notices shall state the name of the applicant; the boundaries and extent of the land; the upset price at 2-8 or 5 Rupees per acre, according to the nature of the soil and probable cost of clearance, and without any deduction for unculturable waste; and the day of sale at the Deputy Commissioner's Office (and no other place), being not less than 3 months from the date on which the advertisement or notices, having been previously prepared, were issued from office for publication as above directed. When it is probable that two or more sales will take place about the same time, one and the same date should be fixed for all.

9. If, on any day before that fixed for the sale, a claim shall be preferred to a right in the land, or any part thereof, the Collector shall proceed in the manner directed in Sections 1 to 5 of Act XXIII of 1863, bearing always in mind that in this Province, by Board of Revenue or other Superior Revenue authority, he will understand

receive a Memo. from the Collector, stating the fact, and warning him that, within 30 days from that date, he must pay into the Treasury a sum not less than [illegible] of the purchase money, otherwise the sale [illegible] shall be cancelled and the land be re[illegible] Provided that if the purchaser be not the [illegible] who deposited the costs of survey and advertisements as prescribed in rule 6, the above Memo. shall not be given to him until he pay into the treasury a sum equal to that so deposited, and this sum shall be paid on demand to the original depositor, or his authorised agent. If the purchaser does not pay in this sum by sunset of the day of sale, the sale shall be considered void, and the lot put up again for sale at noon of the following day, or next Office day.

12.—If the purchaser fail to pay 10 per cent. of the purchase money, on or before the 30th day after the day of sale, the sale shall be declared cancelled, and no further proceedings shall be taken regarding the same land until another application is in due form made for it, when advertisement and notices shall be issued as before, but no preliminary enquiry made.

13. If the purchaser pay 10 per cent. on or before the 30th day after that of sale, and the Commissioner has, in the mean time, rejected any appeals preferred against the order of the Collector rejecting claims to the land, or against any alleged informality sufficient to invalidate the sale, then the Collector shall grant to the purchaser a deed signed by himself, and in the annexed form, which shall be held to convey to him a full hereditary and transferable proprietary right in the land sold, and to absolve it from all demand for land revenue by Government, and all claims whatever of previous right of any kind, by whomsoever preferred, but the land shall remain liable for payment of the purchase money, with interest at 10 per cent., and to all general taxes and local cases to which other lands paying revenue are liable, and to all claims by third parties, according to the provisions of the Act to be passed on the subject. The deed shall also prescribe the mode and time of payment of the remainder of the purchase money, which shall be as the purchaser pleases, provided not less than 10 per cent. of the original sum, with 10 per cent. on all arrears from the last preceding payment, be paid yearly on or before the anniversary of the date of sale.

14. Failure to pay any instalment or portion of instalment, subsequent to that paid within 30 days of the day of sale, or of any arrears of interest, shall render the lot liable to be sold for realization of the arrears, &c. On failure occurring, the Collector shall immediately give notice to the owner, if resident in the district, or to his agent or servant in the land, and shall advertise the amount of arrears, with all necessary particulars, in two successive Nos. of the *Government Gazette*, and of two of the principal English and Vernacular papers of the Province, and these advertisements shall be considered sufficient notice, if the principal or his agent do not receive personal notice, [illegible] re-sale shall not be advertised until 3 months [illegible] the date of failure, within which period the [illegible]lector shall be at liberty, if he sees fit, to receive [illegible] arrears if tendered by the owner, and such [illegible]ipt shall be held to condone the failure. The [illegible]es above prescribed for sale shall apply to a [illegible] sale under this Section, except that the bids shall [illegible]t be at so much per acre, but in round sums for [illegible] lot as it stands, and the purchaser must pay

10 per cent. on the day of sale, or in default, the lot shall be again put for sale on the same or the next ordinary day, and the remainder within 30 days there[illegible] cancelled: the 10 per [illegible] paid shall [illegible]ed, and the lot resold [illegible] re-issue [illegible] advertisements and notices, as prescribed above [illegible] sale.

15. In the event of default in [illegible] arrears, as prescribed in the preceding Section, the proceeds shall be applied, first, to defray all expences of sale; 2ndly, to the payment to Government of the full amount of the arrears due on the original purchase of the lot, together with interest at 10 per cent. on the same from the last preceding date of payment; 3rdly, to refund to the party whose right has been sold the amount he may have paid for survey and instalments of purchase money, but without interest; and 4thly, the remainder, if any, shall be divided rateably between Government and the party who has been sold out, the latter receiving a share in the proportion of the amount of the instalments he had paid to the whole of the purchase money.

16. No party shall have a legal right to a refund of any money paid by him, unless the same has been prescribed in any of the preceding sections.

17. On granting the deed mentioned in the 12th Rule, the Deputy Commissioner shall, by a written order, direct a Tehseeldar or other responsible Officer to put the purchaser, or his agent, in possession, and that Officer shall give possession accordingly on the spot, in the form usual in the country, and taking the receipt from the purchaser, or his Agent, shall forward it to the Deputy Commissioner, with his report stating execution of the order he had received.

18. Within six months after receiving possession, as above, the purchaser shall erect substantial masonry boundary pillars at such spots as the Deputy Commissioner shall specify on a map of the land to be supplied by him to the purchaser. In the event of the latter failing to erect these pillars, the Deputy Commissioner shall have them erected and charge the cost to the purchaser, who shall pay the amount with his next yearly instalment, or if the whole purchase money shall have been paid, at such date as the Deputy Commissioner shall fix, and failure to pay at the time fixed shall cancel the sale in the manner provided for by failure to pay an instalment of purchase money.

19. If any dispute should arise, as to the boundaries, between the owners of adjoining lots, sold under these rules, the Deputy Commissioner shall re-adjust them, realising and refunding from and to the owners respectively, as his decision may require: when any land has been included in two lots, it shall be held to belong to that of which the sale first took place: when a river forms the boundary between two grants, the main channel shall be considered the boundary, whatever change may take place by gradual encroachment on the one side and accession on the other, but in case [illegible] other change, the old boundary shall h[illegible]

20. If a purchaser wishes to pay the p[illegible] lot into any other treasury than that of th[illegible] in which the lot lies, he will apply by lette[illegible] Chief Commissioner for permission to do s[illegible]

21. All sums paid on account of pu[illegible] waste lands shall be held in deposit till [illegible] orders.

22. Holders of grants of waste land [illegible] previous rules will be allowed to purchase [illegible] any period [illegible]re the payment of revenue to Governme[illegible]nences, at the average price per acre of the [illegible] of the land sold by auction under the rules [illegible]eded, or under the present rules i[illegible]trict in which the grant may be situated, an[illegible]t least three lots must have been sold separate[illegible]y auction before an average can be calculated. [illegible], in case of the whole lands of a district having [illegible]en disposed of without the occurrence of these auction sales, the average of the nearest district competent to yield it may be taken.

23. All applications, petitions, &c., connected with the disposal of waste lands, and claims thereto, presented to a Deputy Commissioner, shall be on plain paper.

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## FORM OF DEED OF SALE OF WASTE LANDS.

KNOW ALL MEN by these presents, that the tract of waste land Registered No._____ comprising_____British acres, situated in Pergunnah_____Zillah _____, and bounded on the North by_____, on the South by _____, on the East by_____, and on the West by_____, having been put up to auction on the_____, and having been knocked down to_____, for Rs._____, of which Rs._____ has been paid into the Government Treasury, I, _____Deputy Commissioner of_____ _____, acting under the authority of the Chief Commissioner of Oudh, do hereby convey to the said_____, his heirs, executors, administrators, and assigns, a full hereditary and transferable proprietary right in the land sold, and to all its produce, subject to the following conditions:—

1st.—The balance of the purchase-money, with interest at 10 per cent. per annum on all arrears, from date of last preceding payment, shall be paid as follows, viz.:—

1863, Rs.
1864, Rs.
1865, Rs.
1866, Rs.
1867, Rs.
1868, Rs.
1869, Rs.
1870, Rs.
1871, Rs.

2nd.—Substantial masonry pillars shall be erected by the purchaser within six months after receiving possession of the lot, at the spots marked on the map supplied, or, should such pillars be erected by the Deputy Commissioner, their cost shall be paid by the purchaser with the first yearly instalment.

3rd.—The lot is hereby absolved from all demands for land Revenue by Government, but is [illegible]

In calculating these cesses, the [illegible] revenue will be assumed to be one-twentieth [illegible] purchase money.

4th.—The right of way he[illegible] njoyed by the public in roads existing in th[illegible] ill be maintained.

5th.—Nothing herein contained [illegible] all be held in any way to affect the right of G[illegible]rnment and the public to existing and custo[illegible]ry rights of freely using any stream within the said tract for purposes of irrigation and navigation, or for the transport of timber and other property, and for other purposes of general utility.

6th.—Failure to fulfil any of the above conditions will render the lot liable to the penalties defined in Nos. XIV., XV., and XVIII. of the Rules for the sale of Waste Lands.

No. 17.

His Excellency the Viceroy and Governor General in Council is pleased to extend the Central Provinces Waste Land Sale Rules to the District of Nimar, and to determine that, as regards Rules II. and IX., viz., the maximum limit of a single grant and upset price per acre, Nimar is to be classed with the adjoining District of Hoshungabad.

MILITARY.

No. 5.

*The* 11*th January* 1865.

Lieutenant J. R. McK. Homfray, Doing-duty Officer in the 36th Regiment, Native Infantry, is appointed to be Doing-duty Officer in the Malwa Bheel Corps.

No. 8.

*The* 12*th January* 1865.

Major A. M. Mackenzie, Commandant, Meywar Bheel Corps, and Superintendent of Hilly Tracts in Meywar, availed himself, on the 5th December, of the privilege leave granted him in G. O. No. 202, dated 6th October last, making over charge of his current duties to Lieutenant and Adjutant W. Battye, of the Meywar Bheel Corps.

POLITICAL.

No. 21.

*The* 10*th January* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to recognize Mr. Auguste Burmester as Consul for Bremen, at Cocanada, on the Coromandel Coast.

No. 32.

*The* 13*th January* 1865.

With reference to G. O. No. 185, dated 22nd June 1864, it is hereby notified that Her Majesty's G[illegible]nment has sanctioned the appointment of [illegible]es Black as Acting Vice-Consul for [illegible] Rangoon, during the absence of Mr. [illegible]

No. 34.

[illegible]rence to G. O. No. 243, dated 9th [illegible] is hereby notified that Her Majesty's G[illegible] has sanctioned the appointment of Mr. J. J. Phillips as Consular Agent, *ad interim*, for France [illegible]t Kurrachee, in the room of Monsr. H. de Clos[illegible]

*The* [illegible] 1865.

*Erratum.* [illegible] O[illegible]ted 5th ultimo, No. 613, for "Jumalo[illegible]" read "[illegible]lalooodeen."

GENERAL.

No. 39.

*The* 11*th January* 1865.

Lieutenant C. W. Street, Assistant Commissioner, 2nd Class, in British Burmah, made over charge of the Treasury of the Amherst District to Mr. G. E. Barr, Officiating Assistant Commissioner, on the forenoon of the 10th December last.

No. 40.

Mr. G. A. Boswell, Extra Assistant Commissioner, 1st Class, Hyderabad Assigned Districts returned to his duty on the forenoon of the 22nd December last, from the privilege leave granted him in G. O. No. 1580, dated 15th December.

No. 41.

The one month's privilege leave of absence granted by the Lord Bishop of Calcutta to the Reverend J. H. Hocking, Chaplain of Gwalior, is confirmed.

No. 43.

Moung Htoon, Extra Assistant Commissioner, 2nd Class, in British Burmah, obtained privilege leave of absence from the forenoon of the 21st October to the forenoon of the 4th November last.

No. 44.

Lieutenant T. Cadell, V. C., Deputy Bheel Agent and Political Assistant, will conduct the duties of Major Cumming, in addition to his own, during the absence of Major Cumming on the leave granted to him in G. O. No. 1275, dated 17th November 1864.

No. 53.

Lieutenant Colonel R. C. Lawrence, C. B., Deputy Commissioner of Simlah, is appointed to officiate as Resident in Nepal during the absence on leave of Colonel G. Ramsay.

No. 56.

Mr. R. D. Nuthall, appointed in G. O. dated 21st September last, No. 1268, to be Superintendent of Elephant Keddahs in the Central Provinces, entered on the duties of his Office on the 6th December 1864.

No. 68.

*The* 12*th January* 1865.

Lieutenant A. N. Bruce, Assistant to the Governor General's Agent, received charge of the Office of Assistant General Superintendent for the suppression of Thuggee in Rajpootana, on the 23rd of December 1864, from Captain D. W. Wise.

No. 70.

Mr. F. O. Mayne, C. B., received charge of the Baiswara Commissionership from Captain J. Perkins [illegible] December last.

Mr. [illegible] Boys, Assistant Commissioner in Oudh, received charge of his office at Nawabgunge on the afternoon of the 1[illegible] December.

No. 71.

The services of Mr. M. McAuliffe, C. S., are placed at the disposal of the Punjab Government.

No. 80.

*The 12th January* 1865.

*Erratum.*—For the words "His Excellency the Viceroy and Governor General of India in Council," in Notification No. 1676, dated 28th December last, read "His Excellency the Viceroy and Governor General."

No. 81.

Mr. Seetaram Rao, Extra Assistant Commissioner, 3rd Class, Hyderabad Assigned Districts, is promoted to the 2nd Class, vice Mr. Bymanjee Jamasjee, appointed 1st Class Extra Assistant.

No. 82.

*Erratum.*—For the words "2nd Class" in the appointment of Messrs. Ruttonjee Jamasjee and Bapoojee Ragonath, Tehsildars, in G. O. No. 1372, dated 24th November last, read "3rd Class."

C. U. AITCHISON,
*Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 181.

*Fort William, the 9th January* 1865.

NOTIFICATIONS.

*Statement of the amount of Government Currency Notes in circulation, of the amount of Coin and Bullion Reserve, and Government Securities held by the Department of Issue of Paper Currency.*

| Date of Return. | Circles of Issue. | Notes in Circulation. | Silver Coin Reserve. | Silver Bullion Reserve. | Government Securities held in Calcutta. |
|---|---|---|---|---|---|
| 1864. | | | | | |
| Decr. 31st | Calcutta ... ... ... | 2,90,94,920 | 81,31,775 | 71,00,000 | 1,38,63,145 |
| " " | Allahabad ... ... ... | 14,55,070 | 14,55,070 | ..... | ..... |
| " 24th | Lahore ... ... ... | 9,46,200 | 9,46,200 | ..... | ..... |
| " 31st | Nagpore ... ... ... | 3,39,450 | 3,39,450 | ..... | ..... |
| " " | Madras ... ... ... | 65,00,000 | 29,96,137 | ..... | 35,03,863 |
| " " | Bombay ... ... ... | 3,65,00,000 | 2,08,71,997 | 26,00,000 | 1,30,28,003 |
| | | 7,48,35,640 | 3,47,40,629 | 97,00,000 | 3,03,95,011 |
| *Deduct*— Notes of other Circles cashed at Head Office ... ... ... | | 44,300 | 44,300 | ..... | ..... |
| | Total ... ... | 7,47,91,340 | 3,46,96,329 | 97,00,000 | 3,03,95,011 |

DEPARTMENT OF ISSUE OF PAPER CURRENCY,
CALCUTTA,
*Dated 4th January* 1865.

H. HYDE,
*Head Commissioner, Department of Issue of Paper Currency.*

No. 255.

Mr. H. D. Sandeman, Civil Pay Master, Bengal, to officiate as Deputy Auditor and Accountant General, Bengal.

No. 255 A.

*The 12th January* 1865.

Mr. H. D. Sandeman [illegible] charge of the above Office [illegible] Mr. [illegible] L[illegible] [illegible] the afternoon of the 9th instant.

No. 260.

Mr. H. A. Mangles to be Ci[illegible] Pay Master, Bombay, and M[illegible]. Waterfield, Civil Pay Master, North-Western Provinces, with effect from the 26th November 186[illegible]

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 7th January* 1865.

*No.* 26 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Captain William Robert Gordon, of the late 68th Regiment Native Infantry, District Superintendent of Police, 1st Grade, Darjeeling. | 29th April 1862. |
| Lieutenant Montague Charles Perreau, of the late 47th Regiment Native Infantry, Assistant Examiner of Commissariat and Stud Accounts. | 4th March 1862. |

*No.* 27 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Surgeon William Boyne Butt, of the Medical Department. | For 20 months, under the new Regulations. |

*The 9th January* 1865.

*No.* 28 *of* 1865.—Lieutenant Colonel Samuel Richard Tickell, of the Bengal Staff Corps, is permitted to retire from the service on the pension of a Colonel from the 15th instant.

*No.* 29 *of* 1865.—Captain Arthur Crawford, of the late 9th Regiment Native Infantry, is permitted to retire from the service on the pension of his rank from the 19th instant.

*No.* 30 *of* 1865.—Lieutenant Colonel Archibald Impey, of the Royal Engineers, Chief Engineer and Secretary to the Chief Commissioner, Public Works Department, Central Provinces (since retired), was permitted to proceed to Europe on furlough on private affairs for three years, under the old rul[illegible] with effect from the 29th March 1864, the da[illegible] his departure from Bombay.

[illegible] 1865.—Major G. A. Williams, of t[illegible] Staff Corps, District Superintendent [illegible] Punjab, who was, in Government Gen[illegible] No. 853 of 1864, appointed to officiate as [illegible] Command and Wing Officer, 4th Punjab Inf[illegible] at his own request, permitted to resign his appointment under the Punjab Government, and is placed at the disposal of His Excellency the Commander-in-Chief.

*No.* 32 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

*Punjab Irregular Force, 4th Cavalry.*

Cornet T. Shepherd, 20th Hussars, 3rd Squadron Officer, to be Adjutant, in room of Captain A. H. Prinsep, who vacates that appointment on promotion.

Captain A. H. Prinsep, to be 3rd Squadron Officer, vice Cornet Shepherd.

*No.* 33 *of* 1865.—Surgeon James Alexander Caldwell Hutchinson, M. D., of the Medical Department, is permitted to proceed to the Cape of Good Hope on medical certificate, and to be absent from Bengal on that account for two years under the old Regulations.

*No.* 34 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Captain Thomas Martin Shelley, of the late 11th Regiment Native Infantry. | For 3 years, under the old Regulations. |

*No.* 35 *of* 1865.—Captain and Brevet Major M. J. Brander, of the late 40th Native Infantry, Deputy Assistant Commissary General, is allowed leave of absence for two months from such date as he may avail himself of it, to visit the Presidency, preparatory to applying for leave to Europe on medical certificate.

*No.* 36 *of* 1865.—Captain J. Bruce, of No. 2 Company, Calcutta Volunteer Rifle Corps, is allowed leave of absence to Europe on private affairs for 12 months, from the 3rd instant.

*No.* 37 *of* 1865.—The following order issued by the Government of Fort St. George is confirmed :—

| | |
|---|---|
| *No.* 483, *dated* 20*th December* 1864.—Granting leave of absence to Europe on medical certificate to Captain A. C. Lilly, of the Madras Staff Corps 2nd in Command, 3rd Infantry Hyderabad Contingent. | For 20 months, embarking at Madras. |

| | |
|---|---|
| *No.* 38 *of* 1865.—Subadar Syed Moostafa, of the 41st Regiment Madras Native Infantry, [illegible] class [illegible] Order [illegible] tish I[illegible] with the title "Bahadoor." | From the 16th October 1864, in succession to Pensioned Subadar Shaik Ibraheem "Bahadoor," deceased. |
| Subadar Major Rungiah, of the 3rd Regiment Madras Light Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor." | From the 23rd October 1864, in succession to Pensioned Subadar Major Rungiah "Bahadoor," deceased. |
| Subadar Veerasawmy, of the 36th Regiment Madras Native Infantry, is promoted from the 2nd to the 1st Class of the "Order of British India," with the title of "Sirdar Bahadoor." | From the 18th November 1864, in succession to Pensioned Subadar Major Ameer Sing, "Sirdar Bahadoor," deceased. |
| Subadar Major Shaik Muctoom, of the 12th Regiment Madras Native Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor." | |

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*No.* 39 *of* 1865.—Captain (Brevet Major) A. E. Osborn, of the late 45th Native Infantry, is allowed an extension of leave from the 30th November to the 27th December 1864, the date on which he returned to Bengal from sick leave to the Cape of Good Hope.

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*No.* 40 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Lieutenant Colonel William Taylor Money, of the 31ts Regiment Madras Light Infantry. | For 2 years, under the old Regulations. |

---

*The* 10*th January* 1865.

*No.* 41 *of* 1865.—The services of Lieutenant P. H. M. Wynter, of the late 32nd Regiment Native Infantry, are placed at the disposal of the Government of Bengal.

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*The* 11*th January* 1865.

*No.* 42 *of* 1865.—With reference to the Notification issued by the Government of Bengal, dated the 5th instant, the services of Surgeon Major J. Sutherland, Civil Surgeon of Patna, are, at his own request, placed at the disposal of His Excellency the Commander-in-Chief.

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*No.* 43 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Lieutenant Alfred Brook Fox, of the Veteran Establishment, Deputy Assistant Commissary, of the Army Commissariat Department. | For 20 months, under the new Regulations. |

*No.* 44 *of* 1[illegible]—The following Notification issued by the [illegible]icial Department, No. 79, dated 5th instant, [illegible]ublished in General Orders:—

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No. 79.

*Fort W[illegible]am, the* 5*th January* 1865.

*Notification.*—[illegible]he following Despatch from the Right Hon'ble [illegible]ne Secretary of State for India, No. 282, dated 30th November 1864, is published for general information and guidance.

The revised Code of Civil Absentee Rules will be corrected according to the directions in the Despatch.

FINANCIAL. INDIA OFFICE,
No. 282. *London,* 30*th November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have to acquaint you that it has recently been resolved that Officers of the Indian Civil and Military Services, in this country, on leave of absence, and requiring extensions of leave, instead of being examined by the examining Physician, as heretofore, shall appear before a Medical Board, of which Sir R. Martin, C. B., is President.

2. In accordance with this arrangement, I have to request that the last Clause of the Appendix to the revised Code of Civil Absentee Rules forwarded with my Financial Despatch dated the 7th instant, No. 262, may be altered as follows:—

"If the applicant for an extension of leave on medical certificate be residing within 20 miles of London, he must produce a certificate from the Medical Board attached to the India Office, showing the necessity for such extension. If residing beyond that distance from London, certificates in the second of the above forms must be produced from two Medical Practitioners."

I have, &c.,
(Signed) C. WOOD.

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*No.* 45 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs:—

| | |
|---|---|
| Captain (Brevet Major) Robert Alexander Napper, of the late 55th Regiment Native Infantry. | For 3 years, under the old Regulations. |

---

*The* 12*th January* 1865.

*No.* 46 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Captain (Brevet Major) Shakespear Sage, of the late 30th Regiment Native Infantry, 2nd in Command and Wing Officer, 37th (the Meerut) Regiment Native Infantry. | For 2 years, under the old Reg[illegible]. |
| Captain Alexander Gordon Duff, of the 36th Regiment Madras Native Infantry, Officiating Deputy Commissioner, Ramree. | For 20 m[illegible], under the [illegible]w Regul[illegible] |

Lieutenant Fendall Currie, of the late 1st European Light Cavalry, Assistant Commissioner, Roy Bareilly.

*No.* 47 *of* 1865.—The under- have reported their return from

Captain (Brevet Major) W. Irwin, late 49th Native Infantry.

Lieutenant Colonel A. A. Macdonell, Bengal Infantry, First Class Assistant, Stud Department.
Second Captain J. P. Basevi, Royal Engineers, First Assistant, Great Trigonometrical Survey of India. } 5th January 1865.

*Date of arrival at Bombay.*

Lieutenant D. T. H. Sampson, Bengal Staff Corps, Adjutant, 9th Bengal Cavalry. } 26th December 1864.

*No.* 48 *of* 1865.—His Excellency the Governor General in Council is pleased to attach Captain T. F. C. Rochfort, late 4th European Light Cavalry, and late Officiating Adjutant of His Excellency's Body Guard, to the Stud Department, for general duty, under the Superintendent of Studs, until further orders.

*No.* 49 *of* 1865.—Ensign E. A. Raikes, of Her Majesty's 107th Foot, Assistant Commissioner, Punjab, admitted to the Bengal Staff Corps in Government General Order No. 1049 of the 20th December 1864, will rank as Lieutenant in that Corps under the operation of paragraph 84 of Government General Order No. 332 of 1861, with effect from the 4th March 1864, subject to Her Majesty's approval.

*No.* 50 *of* 1865.—With reference to Government General Order No. 1004 of the 9th instant, the services of Surgeon W. B. Beatson, M. D., are placed at the disposal of the Government of Bengal.

*No.* 51 *of* 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps, with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

Lieutenant Edward G. Lillingston, of Her Majesty's 71st Foot, Assistant Commissioner of Lohardugga. } 17th November 1863.

*The* 13*th January* 1865.

[illegible] *of* 1865.—In modification of paragraph 6 [illegible] Government General Order No. 633 of 1854, [illegible] allowance for the maintenance of children, [illegible] of the Lower Orphan School, who are being [illegible]cated in the Lawrence Asylum, will, from the [illegible] of May next, be drawn by the Principal of [illegible] Institution monthly on Bills which are to be [illegible] to the Pay Master of the Circle for payment.

[illegible] the rules passed by Government in the Home Department, dated 6th January 1849, promoted to the 1st Class, with effect from the 4th instant.

*No.* 54 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

Major H. E. Jerome, V. C., of Her Majesty's 19th Foot, Officiating Brigade Major, to be a Brigade Major on the Establishment, in succession to Major G. Ward, resigned.

Captain H. Fellowes, Bengal Staff Corps, 2nd in Command and Wing Officer 15th (the Loodianah) Regiment Native Infantry, to be a Brigade Major on the Establishment, in succession to Captain J. B. Saunders, proceeding to Europe on leave under the old rules.

*No.* 55 *of* 1865.—The services of Captain W. R. Tucker, of the Royal Engineers, are placed at the disposal of the Public Works Department.

*No.* 56 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

2nd Captain (Brevet Major) Frederick Sleigh Roberts, V. C., of the Royal Artillery, Assistant Quarter Master General. } For 20 months, under the new Regulations.

*No.* 57 *of* 1865.—The under-mentioned Officer has reported his return from England :—

*Date of arrival at Fort William.*

Second Captain W. H. Burton, of the Royal Engineers (Madras). } 6th Jany. 1865.

*No.* 58 *of* 1865.—The following Military Letter from the Right Hon'ble the Secretary of State for India, No. 377, dated the 25th November 1864, and the Abstract of Rulings therein referred to, are published for general information :—

The principle of the Rules will apply to Officers of the Indian Army holding qualifying appointments as well as to Officers of the Staff Corps similarly situated and whose promotion to the rank of Colonel is not provided for under paragraph 2 of the Staff Corps Warrant.

MILITARY. INDIA OFFICE,
No. 377. *London*, 25*th November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—The Secretary of State for War has recently determined on a revision of the computa-

[redacted]

I have, &c.,

(Sd.) C. WOOD.

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Qualifying Service required of a Lieutenant Colonel previous to his obtaining the rank of Colonel in the Army under the provisions of the Royal Warrant of 14th October 1858.

HORSE GUARDS,
*8th September* 1864.

Lieutenant Colonels after serving five years in the following appointments will be promoted to the rank of Colonel.

1. Regimental Lieutenant Colonel. { Command of a Regiment, Second Lieutenant Colonel of a Regiment.

2. Major and Lieutenant Colonel, Household Cavalry.

3. Major, Household Cavalry.

4. Mounted Officer, Foot Guards.

5. Deputy Adjutant General.

6. Deputy Quarter Master General.

7. Assistant Adjutant General.

8. Assistant Quarter Master General.

9. Military Secretary (or Assistant Military Secretary when there shall be no Military Secretary) to such General Officers alone as are exercising the Supreme Command on a Station.

10. Commissioner to the Head Quarters of an allied Army.

11. Members of the Council of Military Education.

12. Inspector General of Army Schools.

13. Lieutenant Governor or Superintendent of Studies at the Royal Military College.

14. Commandant of the Staff College.

15. Military Superintendent of a manufacturing Department of the Army.

16. Regimental Majors who are Brevet Lieutenant Colonels in temporary Command of Regiments in the absence of the Lieutenant Colonel shall reckon any periods of temporary command which exceed one calendar month.

17. Captain or Major with rank of Brevet Lieutenant Colonel in Command of a mixed force amounting to 400 men for a period exceeding one calendar month at a time, unless the Officer in temporary command shall be in receipt of the pay of the command owing to the death or removal of the Commandant, when the period (short of one calendar month) for which he receives the pay will be admitted as service of a qualifying nature under Clause 11.

[redacted]ntal Major who is a Brevet Lieuten-
[redacted]ommand of a Wing of a Regiment
[redacted] which may be so divided as to
[redacted]istinct commands.

[redacted] Inspector of Fortifications.

[redacted]t Inspectors of Volunteers if sub-
[redacted]fficers.

[redacted]lonels after serving eight years in
[redacted]ppointments will be promoted to
[redacted]lonel :—

[redacted] to Sovereign.

2. With the rank of Lieutenant Colonel obtained for service in the Field.

3. In a Civil appointment, provided the nature of such be considered calculated to give the Officer such practical experience as may afterwards prove advantageous to the service to which he belongs.

4. Appointment as Commanding Royal Engineers.

Assistant Instructors of Volunteers, if Captain, with Brevet rank of Lieutenant Colonel obtained for service in the Field.

*Notes on foregoing.*

All periods of leave of absence granted to an Officer will be considered as part of his service.

*The only service* which a Captain who is a Brevet Lieutenant Colonel can reckon towards promotion after 5 years is named on page 3, No. 17.

Officers appointed to Staff situations at home (not commissioned) will reckon service from date of taking up the Staff duties, and Officers selected for similar appointments abroad will reckon service from date of embarkation to the station until date of disembarkation when returning home. Officers *acting* in staff appointments which qualify for the rank of Colonel are not permitted to reckon such service unless confirmed in the appointment.

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*No.* 59 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps, with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Captain Donald Macdonald, of the late 25th Native Infantry, Assistant Surveyor, in charge 2nd Division Lower Provinces. | 13th August 1864. |
| Lieutenant David Clapham Andrew, of the General List, Infantry, Assistant Surveyor, 3rd Division Central Provinces. | 18th January 1864. |

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*No.* 60 *of* 1865.—General Order No. [redacted] the 1st December 1864, granting leave of absen[redacted] on sick certificate, to Europe, for 20 months, t[redacted]r-geon W. B. Beats[redacted], M. D., is cancelled.

H. W. NORMAN, *Colonel*,
*Secy. to the Govt. of* [redacted]*ia.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 7.

*Fort William, the 9th January 1865.*

NOTIFICATIONS.

Paras. 62 to 66 inclusive of Section LVIII of the Military Regulations, relating to tests for Civil Engineering and Surveying having been expunged* under the orders of the Government of India in the Military Department, it is hereby notified that the only tests in force for the admission of Military Officers into the Engineer Establishment of the Public Works Department are those laid down in Chapter II, paras. 34 to 36 of the Public Works Code. Henceforth the names of all Military Officers who have passed those tests will be notified by the Government of India in the Public Works Department; those who pass the ordinary test will be distinguished in the Army List by the letters C. E. against their names, and those who attain the higher standard at the Thomason College, by the letters T. C.

* Military Department No. 518 of 17th November 1864.

No. 8.

*The 10th January 1865.*

Sergeant A. Watson, Assistant Overseer, 3rd Grade, on probation, Hyderabad, is permanently appointed to the Public Works Department as an Overseer of the 2nd Grade.

No. 9.

*The 11th January 1865.*

The Irrigation Works in the Punjab will henceforth be divided into two Circles of Superintendence.

The Deputy Director of Canals in the Punjab will become the Superintending Engineer of the Western Circle, which will comprise all the districts west of the Sutlej and include the Baree Doab Canal, the Inundation Canals, the Indus Canals, the Rechna Doab Survey.

The Western Jumna Canal will cease to be regarded as an Executive Charge and the Superintendent will become Superintending Engineer of the Eastern Circle, which will comprise all the districts east of the Sutlej, and include the Executive Divisions of the Western Jumna Canal and the Delhi and Goorgaon Works.

No. 10.

Mr. R. D. Hamilton, Assistant Accountant, 2nd Class, with temporary rank of Accountant, 3rd Class, Mysore, has been granted one month's privilege leave with effect from the 2nd December 1864.

No. 11.

*The 12th January 1865.*

W. C. Hennessey, Assistant Engineer, 1st Class, North-Western Provinces, passed the examination in Hindoostanee prescribed by G. O. G. dated 9th January 1837, on the 29th July 1864.

E. C. S. WILLIAMS, *Captain*, R. E.
*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

*Latest safe dates for the Overland Mail from Calcutta to Bombay [illegible] the year [illegible], however, to revise [illegible] extension of railway lines.*

| From Calcutta. | From Bombay.* |
|---|---|
| 6th January 1865. | 14th January 1865. |
| 21st " " | 29th " " |
| 6th February " | 14th February " |
| 21st " " | 1st March " |
| 6th March " | 14th " " |
| 21st " " | 29th " " |
| 6th April " | 14th April " |
| 21st " " | 29th " " |
| 6th May " | 14th May " |
| 16th " " | 24th " " |
| 1st June " | 9th June " |
| 16th " " | 24th " " |
| 30th " " | 9th July " |
| 15th July " | 24th " " |
| 31st " " | 9th August " |
| 15th August " | 24th " " |
| 31st " " | 9th September " |
| 21st September " | 29th " " |
| 6th October " | 14th October " |
| 21st " " | 29th " " |
| 6th November " | 14th November " |
| 21st " " | 29th " " |
| 6th December " | 14th December " |
| 21st " " | 29th " " |

* The Mail Steamers will leave Bombay at 10 A. M., on the dates shown in this list.

CALCUTTA, *The 30th Dec. 1864.* — C. K. DOVE, *Post Mr. Genl. of Bengal.*

### TO TIMBER MERCHANTS AND CONTRACTORS, &c.

*Oudh Forest Department.*

A sale of Sâl logs (about 100,000 cubic feet) cut in 1862-63, will take place at noon on the 2nd of March 1865, at Ghuttea Ghaut, on the Sarda, and afterwards at Dhunara Ghaut, two miles further down stream, near the towns of Madho Sunda, Sherepore, and Poorunpore, in the Shajehanpore district; upset price 8 annas per cubic foot. The timber will be sold in both large and small quantities. The timber can be floated to Byram Ghaut for 3 annas a cubic foot, or, after land carriage of some twenty miles, can be floated down the Kumhout Nuddee to the Ganges, then to Cawnpore, Allahabad, Benares, &c. Estimated cost from Ghauts to Cawnpore, 4½ annas per cubic foot. Tenders for quantities over 1,000 cubic feet, at 8 annas per cubic foot, for cash payment, will be accepted up to date of sale. Terms of sale can be had on application to the undersigned.

E. S. WOOD, *Captain,*
*Offg. Consrvr., Oudh Forests.*

CAMP, KYREEGURH FOREST, *viâ* POORUNPORE, ZILLAH SHAJEHANPORE.

*STATEMENT of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 6th January* 1865.

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent. of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 4½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount brought forward from Statement, dated 24th December 1864. ... ... | 53,000 | 300 | 25,87,400 | 22,89,400 | 95,77,700 | 66,54,100 | 31,79,800 | 4,73,51,400 | 2,33,87,400 | 17,600 | 16,000 | 9,55,14,100 |
| ADD— | | | | | | | | | | | | |
| Amount enfaced at Madras, as per Registers received up to date... | ... | ... | ... | ... | 7,300 | 8,500 | 27,000 | 53,000 | 1,06,100 | ... | ... | 2,01,900 |
| Amount enfaced at Bombay, as per ditto ditto ditto ... | ... | ... | ... | ... | ... | ... | ... | 16,000 | ... | ... | ... | 16,000 |
| Amount enfaced at Calcutta up to date. ... ... | ... | ... | ... | ... | .. | ... | 9,100 | 70,000 | 1,29,500 | ... | ... | 2,08,600 |
| Total ... | 53,000 | 300 | 25,87,400 | 22,89,400 | 95,85,000 | 66,62,600 | 32,15,900 | 4,74,90,400 | 23,62,300 | 17,600 | [illegible] | 9,55,40,600 |
| DEDUCT— | | | | | | | | | | | | |
| Amount removed from the London Books, as per Registers received up to date ... | ... | ... | ... | ... | ... | ... | 5,000 | 15,000 | ... | ... | ... | 20,000 |
| Total ... | 53,000 | 300 | 25,87,400 | 22,89,400 | 95,85,000 | 66,62,600 | 32,10,900 | 4,74,75,400 | 2,36,23,000 | 17,600 | 16,000 | 9,55,20,600 |

FORT WILLIAM;
LOAN O[illegible],
*The* 11th [illegible]*nuary* 1865.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

# NOTICE.

*Memorandum of the dates fixed for the despatch of the Overland and Rangoon and Moulmein, &c., Mails from Calcutta, and China and Australia Mails from Bombay, during the year* 1865.

| Dates of departure from Calcutta of the P. & O. Company's Steamers during the year 1865. | Monthly. | Mid-monthly. | Dates of departure from Bombay of the P. & O. Company's Steamers with the Overland Mails to Suez during the year 1865. | Monthly. | Mid-monthly. | Dates of departure from Bombay of the P. & O. Company's Steamers with Mails to China and Australia, during the year 1865. | Monthly. | Mid-monthly. | Dates of departure from Calcutta of the Services Mauritius Messageries Imperiales Overland French Mail Steamers. |
|---|---|---|---|---|---|---|---|---|---|
| January 1865 ... | [illegible]th | 23rd | January 1865 ... | 14th | 29th | January 1865 ... | 14th | 30th | 3rd January 1865 |
| February „ ... | 9th | 23rd | February „ ... | 14th | 1st March | February „ ... | 15th | 2nd March | 3rd February „ |
| March „ ... | 9th | 23rd | March „ ... | 14th | 29th | March „ ... | 15th | 30th | 3rd March „ |
| April „ ... | 9th | 23rd | April „ ... | 14th | 29th | April „ ... | 15th | 30th | 3rd April „ |
| May „ ... | 9th | 23rd | May „ ... | 14th | 24th | May „ ... | 15th | 30th | 3rd May „ |
| June „ ... | 9th | 23rd | June „ ... | 9th | 24th | June „ ... | 15th | 30th | 3rd June „ |
| July „ ... | 9th | 23rd | July „ ... | 9th | 24th | July „ ... | 15th | 30th | 3rd July „ |
| August „ ... | 9th | 23rd | August „ ... | 9th | 24th | August „ ... | 15th | 30th | 3rd August „ |
| September „ ... | 9th | 23rd | September „ ... | 9th | 29th | September „ ... | 15th | 30th | 3rd September „ |
| October „ ... | 9th | 23rd | October „ ... | 14th | 29th | October „ ... | 15th | 30th | 3rd October „ |
| November „ ... | 9th | 23rd | November „ ... | 14th | 29th | November „ ... | 15th | 30th | 3rd November „ |
| December „ ... | 9th | 23rd | December „ ... | 14th | 29th | December „ ... | 15th | 30th | 3rd December „ |

| Calcutta and Burmah Steam Navigation Company's Contract Steamers. | | | |
|---|---|---|---|
| Chittagong and Akyab Line. † | Akyab, Rangoon, and Moulmein Line. * | Rangoon, Moulmein, Penang, Malacca, and Singapore line. * | Bombay, calling at Bimlipatam, Vizagapatam, Coconada, Massulipatam, Madras, Negapatam, Columbo, Tuticorin, Cochin, Calicut, Cannanore, Mangalore, and Carwar. |
| Leave Calcutta on the 6th and 22nd of each month.<br>Chittagong about 8th and 24th.<br>Arrive Akyab 9th and 25th.<br>Leave Akyab about 10th and 26th of each month.<br>Chittagong, 12th and 28th of each month.<br>Arrive Calcutta 14th and 30th. | Leave Calcutta on the 1st and 16th of each month.<br>Akyab, about 3rd and 19th of each month.<br>Rangoon, about 9th and 25th of each month.<br>Arrive Moulmein 10th and 26th of each month.<br>Leave Moulmein 12th and 28th of each month.<br>Rangoon, 14th and 30th of each month.<br>Akyab, 17th and 3rd of each month.<br>Arrive Calcutta 19th and 5th of each month. | Leave Calcutta on the 7th of each month.<br>Do. Rangoon about 12, do.<br>Do. Moulmein „ 14, do.<br>Do. Penang „ 19, do.<br>Do. Malacca „ 21, do.<br>Arrive at Singapore about 22, do.<br>Leave Singapore, 26, do.<br>Do. Malacca about 27, do.<br>Do. Penang „ 29, do.<br>Do. Moulmein „ 3, do.<br>Do. Rangoon „ 5, do.<br>Arrive Calcutta on 10th of each month. | Leave Calcutta on the 1st and 15th of each month.<br>Leave [illegible]tam about 4th and 18th of [illegible]<br>Leave Vizagapata[illegible]h and 18th of each month.<br>Leave Coconada 5th and 19th of each month.<br>‡Leave Masulipatam 20th of each month.<br>Leave Madras 10th & 24th do.<br>Do. Nigapatam, 11th and 25th of each month.<br>‡Leave Columbo 28th do.<br>Do. Tuticorin, 15th and 29th do.<br>Do. Cochin, 16th and 30th do.<br>Do. Calicut, 17th and 1st do.<br>Do. Cananore, 18th and 2nd.<br>Do. Mangalore, 19th and 3rd.<br>Do. Carwar, 19th and 3rd.<br>Arrive Bombay 21st [illegible]<br>Leave [illegible] on the [illegible] month.<br>Do. [illegible] about 3[illegible]<br>Do. [illegible]<br>Do. Cannano[illegible]h.<br>Do. Calicut, [illegible]<br>Do. Cochin[illegible]<br>Do. Tutic[illegible] 7th<br>‡Do. Colu[illegible]o, 23r[illegible]<br>Do, Nigapatan[illegible]th,<br>Do. Madras, 15t[illegible]<br>‡Do. Mussulipata[illegible] 30th.<br>Do. Coconada, 17th & 1st[illegible]<br>Do. Vizagapatam, 18th [illegible]2nd.<br>Do. Bimlipatam, [illegible] nd.<br>Arrive Calc[illegible] |

* When the date of departure falls on a Sunday according to the above Table, the Steamers will leave on the Monday following.
† The Mail Steamers will leave Bombay on the above dates at 10 A. M.
‡ The Steamer of 1st does not call regularly at Mussulipatam and Columbo, but that of 15th calls at all the ports as shown in the above Table.

CIRCULAR No. 66.

Copy forwarded for the information and guidance of all Postal Officers.

CALCUTTA,
*The 30th December* 1864.

C. K. DOVE,
*Post Master General of Bengal.*

# POSTAL NOTICE.

T[illegible] inf[illegible] Newspapers, and Books can now be received for transmission to Batav[illegible] Seych[illegible] and Mauritius by the French Mail Packets (Messageries Impériales). [illegible]able of Post[illegible]es attached to the Postal Notice of the 7th December 1863 is herewith repu[illegible]shed; Bata[illegible] Seychelles, Reunion, and Mauritius being added to the list of places to which Mails can be forwa[illegible] the above-mentioned line of [illegible] steamers.

*Rates of Postage chargeable in Ind[illegible]n Letters, Newspapers and Books transmitted by the French Mail Packets from the Indian Ports se[illegible]ed by them (Calcutta, Madras, Singapore, and Aden) to any of the under-mentioned places :—*

| To | Letters. Pre-payment optional except in respect of the places marked. Not exceeding ½ oz. | | | Exceeding ½ oz. and not exceeding 1 oz. | | | For every additional oz. or fraction of an oz. after the first. | | | Newspapers. Pre-payment compulsory. Not exceeding 4 ozs. | | | Exceeding 4 ozs. and not exceeding 8 ozs. | | | Books, &c. Pre-payment compulsory. Not exceeding 4 ozs. | | | Exceeding 4 ozs. and not exceeding 8 ozs. (½ lb.) | | | For every additional 8 ozs. (½ lb.) up to the limit of 3 lbs. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. |
| Calcutta ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Madras ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Singapore ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Aden ... | | | | | | | | | | | | | | | | | | | | | | | | |
| *Point de Galle | | | | | | | | | | | | | | | | | | | | | | | | |
| *Hong Kong... | | | | | | | | | | | | | | | | | | | | | | | | |
| *Mauritius ... | 0 | 4 | 0 | 0 | 8 | 0 | 0 | 8 | 0 | 0 | 0 | 8 | 0 | 1 | 4 | 0 | 2 | 0 | 0 | 4 | 0 | 0 | 4 | 0 |
| *Seychelles ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Pondicherry ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Saigon ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Shanghai ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Batavia ... | | | | | | | | | | | | | | | | | | | | | | | | |
| Reunion ... | | | | | | | | | | | | | | | | | | | | | | | | |

NOTE.—In addition to the above rates, Newspapers will be charged with Indian Inland postage (to be pre-paid) if despatched from any but a Presidency Post Office.

*N. B.*—Letters, &c., addressed to the places marked with an asterisk must be prepaid: but the Indian Post Office is not aware if any further charge is made on delivery.

The Mails despatched by the French Steamers which leave Calcutta on the 3rd of each month, are timed to reach their destination as follows :—

| | |
|---|---|
| Madras ... ... ... | 6th. |
| Pondicherry ... ... ... | 7th. |
| Point de Galle ... ... | 10th. |
| Singapore ... ... ... | 20th. |
| Saigon ... ... ... | 23rd. |
| Hong-Kong ... ... ... | 28th. |
| Shanghai ... ... ... | 2nd of next month. |
| Aden ... ... ... | 21st. |
| Seychelles ... ... ... | 30th. |
| Mauritius ... ... ... | 6th of next month. |

CALCUTTA,
*The 9th January* 1865.

H. B. RIDDELL,
*Director General of the Post Office of India.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 2.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, JANUARY 14, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. cap. 67.**

The Council met at Government House on Friday, the 6th January 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

Major General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádur.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

REMARRIAGE OF NATIVE CONVERTS' BILL.

The Hon'ble Mr. Maine introduced the Bill to legalize, under certain circumstances, the remarriage of native converts to Christianity, and moved that it be referred to a Select Committee. He said—"In submitting this Bill to the Council, I must repeat the description of its intended character which I gave when I obtained leave to introduce it—that it is intended to be an interposition of the secular power on purely moral grounds, leaving missionaries and clergymen and ministers of religion generally to remarry Native Converts repudiated by their wives or husbands for religious reasons, or not to remarry them, or to remarry them under such circumstances as, in their view, may justify remarriage. I have attempted to mark its secular character, first, by the recital in the preamble that it is expedient to relieve ministers of religion from the penalties to which they are now exposed for celebrating such remarriages, and secondly, by the provision in the Bill that no minister of religion shall be compellable to avail himself of the liberty allowed by it. There are moreover, many minor points and small peculiarities of expression in the Bill which are to be accounted for by the intention to stamp its secular nature.

Sir, the persons entitled to relief under the measure are Native Husbands and Native Wives—a "Native Husband" being defined to be "a married man domiciled in British India, who shall have completed the age of sixteen years, and shall neither be a Christian nor a Jew," and a Native Wife being correspondingly defined to be "a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall neither be a Christian nor a Jewess." The first point, then, to be noted in regard to the measure is that it applies to Native wives no less than to Native husbands. I freely acknowledge that the same considerations do not apply to females as to males, and that the instances will be few in which a Native Christian woman will apply for permission to rejoin her Native husband. Still such cases may occur; and until it be shown that we are legislating for a contingency which is practically of no moment, I have thought fit to maintain the equality of sexes provisionally in the Bill. Perhaps I shall make my description of the provisions of the Bill clearer if I follow the course adopted in my Statement of Objects and Reasons,

and [illegible] ak as if the Bill referred only t[illegible] a Native husba[illegible] repudiated by his wife, it b[illegible]g remembe[illegible] at the converse proposi[illegible] ill always appl[illegible] diated by the [illegible]

Sir, [illegible] the desertion of or repud[illegible] of the Na[illegible] band by his wife when such [illegible]ertion o[illegible]udi[illegible] solely the result of the Native husband's [illegible]g changed his religion for Christianity. I h[illegible] followed Sir Barnes Peacock's draft Bill in pr[illegible]iding that the voluntary refusal or neglect of the wife to cohabit with the husband after his change of religion has come to her knowledge, shall be sufficient proof of desertion or repudiation, and also shall be sufficient presumptive proof that such desertion or repudiation was the consequence of his change of religion, unless some other cause be shown. I further hold —and that seems to have been also the opinion of Sir Barnes Peacock—that no greater difficulty will attend the proof of the fact of the change of religion for Christianity than attends the establishment of any other fact before a court of justice. It is true that, in European and Protestant Christian societies, where the shades of belief mix insensibly and by imperceptible gradations with one another, it is sometimes hard to say when a person has passed from one form of belief to another. But English courts of justice, and particularly the Court of Chancery, have often to face a similar difficulty. Here in India the difficulty is greatly diminished. It must be remembered that these matters have to be regarded from a Native, not from an European point of view: and in India a change of religion is generally accompanied by a violent disturbance of manners, usages, and family relations. On the whole the Indian Courts seem to me to have many more difficult questions before them to solve every day than the enquiry whether a Native has *bonâ fide* changed his religion for Christianity.

The mode of relief is by suit for conjugal society, commencing as at home, with a petition followed by a citation. The petitioner will appear personally in Court, and so will the respondent in conformity with the terms of the citation. The petitioner will be bound to prove the identity of the parties, their marriage, the fact that they have attained the age which will satisfy the definitions of 'Native Husband' and 'Native Wife,' the desertion or repudiation, that such desertion or repudiation has taken place solely in consequence of the change of religion, and that it has continued for the six months next before the commencement of the suit. The *media probandi*, in the last instances, will be those provided in Sir Barnes Peacock's Bill. Thereupon the Judge will ask the respondent whether she refuses to cohabit with her husband, and, if so, what is the ground of such refusal. It is to be remarked that the Judge will be a High Court Judge in the Presidency Towns and a Zillah Judge in the Mofussil, and that during the examination, he may exclude from the Court such persons as he shall think fit. If the respondent refuses to rejoin her husband, the case will be adjourned for a month, and arrangements made for a private interview between the husband and wife. I call the interview private, but it has been suggested that in some cases it may be cruel or unseemly to provide for an absolutely private interview, and hence the Judge may regulate or modify the degree of privacy, but no condition is to be imposed which may interfere with the ascertainment of the respondent's free volition. At the expiration of the month, the parties will re-appear. If the respondent still persist in her refusal, there will be an adjournment for a twelvemonth, at the expiration of which they will again come into Court, and the petitioner will be under the necessity of proving the continued desertion or repudiation during the year that has expired. A fresh interview will then be arranged for, followed by a new interrogation, and after all these adjournments, interrogations, and interviews, the respondent conclusively declines to rejoin her husband, then, and not till then, the Court my make a decree empowering the petitioner to remarry.

The time occupied by these proceedings will necessarily be twenty months. But I calculate that, taking into account the preliminaries and the hearings, the space of time between the first desertion or repudiation and the decree for remarriage will be at least two years. These periods are, however, only inserted in the Bill *pro formâ*, and if the further information we shall receive shows that they ought to be shortened or lengthened, I personally shall have no objection to change them.

The further points which require notice are mentioned in the Statement of Objects and Reasons. Cruelty or adultery proved against the petitioner will bar the suit. The children of the first marriage retain their personal and proprietary rights, and, if under the age of three years, may remain in their mother's custody until attaining that age. The wife retains the status which she would have had as lawful wife, and forfeits no right to maintenance, dower or inheritance. She is, however, permitted to remarry after the decree allowing the petitioner's remarriage, but if she remarry she forfeits all rights or interests she may have in the petitioner's property. That is substantially the provision of the existing law—the wife after the decree of remarriage has the rights of a Native widow, but if she remarries she forfeits them as under the Hindú Widow's Remarriage Act. It is further to be observed that if the wife has not sufficient property to maintain herself, the Judge may award alimony, and also sufficient funds to enable her to defend the suit, if she be in need of them. A Convert married to several Native wives will have to make them all respondents.

Sir, when I obtained leave to introduce the Bill, I went so fully into the grounds for considering it both justifiable and expedient, that I do not deem it necessary to trouble the Council by travelling again over the same field. I have, however, to say that it is not my intention to ask the Council to pass the Bill in any haste, and shall probably not ask them to pass it during the present sittings. I am aware that many missionaries consider the matter one of extreme urgency, and are anxious that this measure should become law with the least possible delay. But I think that after waiting so long they may reasonably wait longer until full information and criticism have been received, both from the various sections of the Christian Community and from any persons who may speak the opinion of Native and non-Christian Society. It is my firm conviction that the preponderant opinion of the missionaries is strongly in favour of the Bill, and I further am under the impression that in proportion to the success in conversion of any body of missionaries is their anxiety for some such measure as this. As for the Native community, I have seen no sign of any dislike or disrelish for the measure, and, indeed, I imagine them to be entirely indifferent to it. Still I am aware how difficult it

is to ascertain these things in India, and I am desirous that the Council shall pass no measure of which it may repent hereafter. But to prevent misconstruction, I must add that, so far as I am personally concerned, if no political difficulties should disclose themselves, and if no general dislike on the part of the Christian world should be proved, it is assuredly my intention to persevere with the Bill."

The Hon'ble Mr. Cust:—"No one can doubt the benevolent motive which has led to the introduction of this Bill, and it must be admitted that it has been introduced in a most fair and liberal manner; I understand that the Bill will be published and circulated for opinion, and no further action before this Council will be taken until replies come, when the principle will be open to discussion. Such being the case, there is no room for opposition at this stage. And I have no amendment to propose, as what I should have proposed is conceded by the Mover of the Bill.

I should be most unwilling to appear as an opponent of any measure in favour of Native Converts, and it would be presumptuous in me to assert, on my own authority, that this measure is opposed to Scripture: but this is the view apparently adopted by the numerous clergy and laymen, who met two years ago at the Punjab Conference, and this is the opinion apparently expressed in a petition signed last week by nearly all the Clergy of the Church of England in Calcutta, the Clergy of Bishop's College, Native Missionaries and Missionaries the husbands of native wives, who have called upon the Government of India to hold back from legislation in the direction of this measure. I am aware that the Church of Rome and many of the Evangelical Clergy, men for whom I have the greatest respect and esteem, have adopted a contrary opinion, whether from unbiassed conviction or motives of expediency I cannot say: anyhow it behoves this Council to pause before it proceeds to legislation.

I am myself opposed to this measure on secular as well as religious grounds. To the conciliation clauses, with some amendments, there may be in principle no objection, though it is doubtful how they can be worked in practice, and how native ladies of respectable family will be induced to appear in Court, and be closeted with Native Converts; but the other clauses of the Bill do nothing less than legalize bigamy among Native Converts, and inflict penalties on innocent parties. I am assured that, in many cases, if the Converts would but have the grace to wait, they might persuade their wives to come round: but when once they have formed new alliances, the door to reconciliation is closed for ever.

I do not wish to say any thing which could possibly appear to be harsh, but it must occur to all that the convictions of a Convert from heathenism to Christianity must be slight, if he requires legislation to secure his morality: that is the real object of the Bill. I do not admit that celibacy and asceticism are unknown in India: these practices had their origin in the East, and are adopted by numerous professors of the Hindú and Buddhist religions. It is with the greatest diffidence that I approach in this Council, even from a historical point of view, the very [illegible]rious subject of the interpretation of passages of Scripture; but it is forced upon me by the argument adopted by Mr. Maine when he asked leave to introduce this bill. I cannot bring myself to believe that St. Paul, a native of Cilicia, in Asia Minor, in a lett[illegible] his flock at Corinth, in Greece, used the wor[illegible] "Let her depar[illegible] the technical sense of th[illegible] forum, [illegible] more to those [illegible] alone so without incu[illegible] the precepts in the Go[illegible] makes ad[illegible] the sole ground of [illegible] difficul[illegible] will no doubt be [illegible] up by those who are best able to do so, and w[illegible] special province it is to do so before the bill [illegible]mes up in Council again, and I shall be glad if arguments are adduced sufficient to convince me that the measure is not opposed to the real interests of the Convert."

The Hon'ble Mr. Muir:—"Sir, I beg to offer a few remarks in support of this Bill.

I believe that legislation is necessary on the subject, because we have applied the European law of marriage to the Native Christians, absolutely and entirely, without any exception to meet the widely different position in which that community stands.

I am as much opposed to 'class-legislation,' where it can be avoided, as my hon'ble friend who has preceded me. But, Sir, I submit that class-legislation then first took place when we made the provisions of the English marriage law applicable to Native Christians without the necessary modifications. And we are now simply retracing our steps in exempting the Native Christians from penalties and restrictions which ought never to have been imposed upon them.

Relief is needed by no other portion of the community. When we look to the Hindoos we find that, if a person changes his religion, he is held to be civilly dead, and so far as any penalties of the secular law go, he is free to consider his previous marriage dissolved, and to contract a new one.

So also with Mahometans. In countries under Mahometan rule, if an idolater or an infidel becomes a Mahometan, he is thereby released from all the domestic obligations under which he lay to the members of his family who do not join Islam, and is free to contract a new marriage. Take the converse case of a Mahometan falling away from his religion;—he becomes *ipso facto* civilly dead, and his marriage dissolved; or rather, if the strict letter of the law be followed, the marriage is dissolved by a much more summary process, for he becomes liable, not merely to civil death, but to a natural, or rather to a violent, end by the sword of the executioner.

Under our own rule, Sir, excepting of course this latter provision for the decapitation of the apostate, the freest liberty is given both to the Hindoo and to the Mahometan in the exercise of their laws and usages. In case of change of religion, they are free to act upon the dogma of consequent civil death, and so far as any interposition or penalty of the secular law is concerned, to remarry at pleasure. Or rather they have perfect liberty both of divorce and remarriage, whether there be change of religion or not.

This, then, Sir, is a sufficient reply to those who say (for this has been said by some) that we are providing an immunity or special license for the Native Christians. This is not the case. Even after the relief sought for by this Bill has been granted, the Native Christians will be bound by restrictions immeasureably severer than those of any other Native community; for they will be required to do all in their power to maintain

the [illegible]ious marriage. Equally unfair is the allegation that the Bill is a measure for enabling the Native Christian to rid himself of his previous obligations. Exactly the reverse is the truth. [illegible] signated one that does not embrace Christianity [illegible] self of its obligations, the assertion may [illegible] me colour of truth. As regards the Native Christian, the measure might more properly be designated one enabling and requiring him to *maintain* his previous obligations: for it expects and requires of him that he shall take every step in his power to ratify and confirm his previous marriage; and not until every effort has been used in vain, and the marriage is seen to be hopelessly disowned and repudiated by the opposite party, is it superseded, and permission to remarry conceded.

We have rightly made the Christian law of monogamy, with its inexorable limitations, and its penalties of bigamy, applicable to the Native Christian, because, by his change of religion, he has signified that to be the system under which he wishes to live. But, Sir, in doing this, we are bound to allow the freest scope for all marriages not opposed to morality and the interests of society, or to the recognized principles of the Christian religion. We are bound, by every consideration of fairness and equity, to relax the letter of the law where it imposes penalties contrary to its spirit, and arising out of circumstances never contemplated by the law.

Holding, then, that legislation on the subject is justifiable, I will now state my views as to whether the provisions of the Bill are sufficient and reasonable.

I hold, Sir, that the relief which it grants is not sufficient, because it makes no provison for an inexpensive and easy mode of procuring divorce in case of adultery. Legislation is urgently required for this purpose; and I learn from my hon'ble friend, the introducer of this Bill, that he intends, at the earliest possible date, to bring forward a measure to secure this object.

As regards repudiation and desertion for change of religion, I believe the provisions of the Bill, with one or two exceptions which I will state hereafter, to be satisfactory and sufficient. If we view marriage as a civil contract, I do not see how we can refuse our assent to these provisions. The laws of various countries hold wilful and persistent desertion, or as it is termed by the Scotch law, *non-adherence*, to be a ground for divorce. And in other countries, a change of religion is taken as a sufficient cause. Burge, one of the first authorities on the subject, thus states the law of divorce in Prussia:—

"In so far as difference of religious faith is, from the beginning, an obstacle to marriage" (and this is precisely the case we have to deal with under the present Bill) "in like manner will change of religion by one of the spouses during the marriage give legal ground to the other to sue for a divorce.

But here, Sir, we have not simple desertion, nor simple change of religion, but desertion and repudiation, combined with, and aggravated by, the dogma of civil death in consequence of the change of religion, and, so far as we may regard marriage to be a civil contract, I know of nothing in the abstract principles of law or ethics opposed to the provisions of the Bill.

But I prefer, Sir, to discuss this question on the basis of marriage as a union contracted under religious obligations.

It has been held, indeed, by some that "heathen or infidel marriage" is different *in kind* from Christian marriage, and is not fenced about with the same indissolubility. I apprehend that this is the ground on which the Bill has been supported by members of the Romish Church, which holds that Christian marriage is absolutely indissoluble. The position might also be regarded as receiving some countenance from a passage in one of Lord Brougham's judgments, where he says:—

"It is important to observe that we regard it (Christian marriage) as a wholly differnt thing, a different status from Turkish or other marriages among infidel nations."

But it is clear that, in saying this, he only meant that such marriages could not be dealt with by our Courts upon the same principles as Christian marriages. He expresses no opinion as to how those marriages would be treated if the parties to them came over to Christianity.

"Because" he proceeds, "we clearly never should recognize the plurality of wives, and consequent validity of second marriages, standing the first, which marriages the laws of those countries authorize and validiate. This cannot be put upon any rational ground, excepting our holding the infidel marriage to be something different from the Christian."

But, Sir, I do not think that this argument can be held in support of the Bill; for however much the marriage-bond may be weakened among various nations by the license of polygamy and divorce, it still remains the basis and ground-work of society. It does so in every country; it has done so in every age. Its obligations are anterior to Christianity, and independent of it. And Christianity accordingly maintains the obligations of marriages contracted under the sanction of other systems equally with those of marriages contracted under its own.

Holding this view, if the present Bill appeared to me in any wise to relax the obligations of the marriage bond, I should be the last to support it. If to my apprehension it tended in the least degree to break down any of those securities and safeguards for innocence and integrity, for purity, faithfulness and affection, which the religious obligation of Marriage, including the Christian doctrine of indissolubility, has so happily reared around it, this Bill should not receive any countenance from me.

But, Sir, it is not so. For when we speak of the religious obligations of marriage, we mean of course those obligations defined and limited by the religion itself, that is by the common consent of the Christian community, or by any large section of it. The secular law clearly should not impose any restrictions on marriage not absolutely required either as safeguards to society, or by the recognized principles of the Christian religion.

It is not, Sir, the business of this Council, it would not befit its constitution, to discuss the question upon a theological basis; nor if it were, should I consider myself competent to the task. But it is its duty to enquire what, *as a matter of fact*, is the received opinion on the subject, of the Christian community at large, or of any considerable portion of the community. For I do not concur with my hon'ble friend who has preceeded me (Mr. Cust) that it is necessary to prove unanimous consent. The opinion even of a respectable and weighty minority would justify the exemption of those who follow it from penalties and disabilities for so doing.

I have taken some pains to ascertain the course of the discussion in this country. I find that it arose so far back as thirty years ago. In 1834 a paper appeared in the Calcutta *Christian Observer* entitled "An Essay on Marriage and Divorce," written, I believe, by the Revd. W. Morton. I beg permission of the Council to read an extract from that paper, and I do so because it formed the basis of the resolutions arrived at by the Missionary body in the following year, and to which I will presently refer :—

"The apostle's rule plainly appears to be this—that the Christian party is only absolved from the obligations of the matrimonial contract by the act of the *unbelieving* party ; if not so absolved, then, of course, both the Christian and Civil Law hold the marriage good and binding ; if otherwise, then 'a brother and sister is not under bondage in such a case ; *i. e.* in case where the other, the *heathen* party resolves upon a separation, and actually does separate from the Christian husband or wife. The apostle's words are—' If the unbelieving depart, let him depart.' The original is, 'if he voluntarily or by his own act be separated or put asunder, let him be so separated or put asunder,' and clearly supposes an entire divorce of person, interests, and affection."

"Where the Civil Law does not decide, there the Church should enjoin the necessary caution and delay upon its members nor permit a second marriage still at least the continued avowal of the absenting person and other circumstances establish the determined intention not to reunite with the Christian partner. Then, I think the apostle's words go to absolve the latter from all further obligation. In this country especially, where passions are strong, as to afford due time for the return of the heathen separatist."

In 1835, the subject was fully and anxiously discussed by a conferenee of all the Protestant Missionaries at Calcutta ; and they unanimously came to conclusions which they embodied in a series of resolutions, the third of which I beg permission to read to the Council :—

"III—Married persons, both Christians, should not be divorced for any other cause than adultery. But if one of the parties be an unbeliever, and though not an adulterer, wilfully depart from and desert the other, a divorce may properly be sued for.

"We are of opinion, however, that such liberty is allowable only in extreme cases, and when all known means of reconciliation, after a trial of not less than one year, have failed."

The resolutions were widely circulated, and, I think, called forth at the time only one dissentient voice from Madras. The unanimity with which they were received by the clerical body may be gathered from a subsequent paper which I quote from th same periodical.

"These resolutions have since been before *four* general meetings, and with a few alterations, chiefly verbal, have been unanimously adopted by all who were present, embracing Missionaries of the Churches of England and Scotland, the Baptist, London, and American Presbyterian Societies. The Serampore Missionaries, too, approved generally of the propositions, and had for many years adopted them in their own practice."

In 1860, the parent Committee of the Church Missionary Society, who writing from London, and that at a distance from local influences, might, perhaps, be supposed likely to form a sounder judgment, thus stated their opinion on Sir Charles Jackson's Bill in a communication which is in the hands of hon'ble Members :—

"We have submitted this measure to our legal advisers, who concur in the expediency of legislative enactment on the subject, and we beg of you to lay the following suggestions in the proper manner be[illegible] the Legislative Council."

The suggestion were merely matters of detail, the measure being in substance and general principle very much like the present Bill.

But it m[illegible] be [illegible]ked, why lay so much str[illegible] on the opinion [illegible] of [illegible] Missionary body? I [illegible]eply because the[illegible] [illegible]m [illegible]eir [illegible]lation to the [illegible] Christian[illegible] [illegible] more than [illegible] subje[illegible] [illegible]gated its bearing, [illegible] [illegible] scrip[illegible]. And I must add that [illegible] [illegible]ments app[illegible] to me an honest expre[illegible] the [illegible]s of th[illegible] majority of those who [illegible] recognized exponents of the doctrine of the [illegible]otestant Churches.

We are not, however, dependent in clerical opinion in respect of the propriety and reasonableness of the measure. In 1853 Sir Barnes Peacock, after quoting the views of the Missionaries as above explained, wrote thus :—

"The alteration proposed to be made in the law is to enable the convert, if deserted and repudiated, to summon the unconverted party before a Court to ascertain whether he repudiates the marriage or not : and if he repudiates it, after allowing him or her a sufficient time for reflection, to authorize a judge to grant a divorce. It appears to me that the proposition is reasonable, and that the convert ought not to be left in a state of suspense for ever, as to the intentions of the other to repudiate the marriage or not."

Sir Charles Jackson, likewise, when introducing his bill in 1859, spoke as follows :—

"And he (Sir Charles Jackson) thought he might add that the great majority of the clergy deemed this (*viz.*, the passage in 1st Corinthians) a sufficient authority for the present measure."

He also said :—

"Before going farther, he wished to guard himself against any misconstruction. This Bill would not in any way affect either a Muhammadan or Hindú party to the marriage who remained true to their original. According to the principles of the law to which they still adhered, the marriage was dissolved already ; and it ought to be, and he believed it was a matter of indifference to them whether the convert did, or did not, marry again. The Bill only proposed to do that for the convert which the Muhammadan and Hindú Law had already done for the other party to the marriage contract."

I may last refer to the views of Sir James Colville. When referred to as Advocate General, by the Right Reverend present Bishop of Calcutta (who is believed to be himself in favour of the principle of the bill), as to his power "to license the remarriage of a Christian Convert, whose partner had refused all further cohabitation on the ground of difference of religion," Sir James Colville wrote :—

"This one case of hardship seems sufficient ground for passing a law, which, in a few sentences, might provide that a native convert (male or female) should, on the solemn refusal of his or her wife or husband to cohabit with him or her, declared competent to contract a second marriage, subject to such provision as may be thought just, and in accordance with Hindú laws and usages with respect to the maintenance of a former wife."

Such, then, is a specimen of the (to my mind) preponderating opinion in favour of the principle upon which this bill proceeds.

I admit, Sir, that there is high authority on the opposite side ; and strong opinions have been expressed, by those who are every way qualified and entitled to express them, that the passage relied on by the other party warrants separation only, and not remarriage. This is the opinion of one, the Venerable Archdeacon Pratt, whose learning and judgment are admitted upon every side.

But it does not concern the Council to judge between these two parties. It is enough for the purposes of the bill to know that a large section, if not the majority, of the Chirstian community admit the liberty of remarriage as in accordance

[illegible] the divine law,— enough to justify the Council [illegible] exempting from the penalties of the criminal law those who avail themselves of the remarrying of the [illegible] mission.

[illegible] to [illegible] that [illegible] case of remarriage after [illegible] in every way analogous to the present [illegible] known that a considerable [illegible] in the Pro[illegible] Church, and the whole Romish persuasion, [illegible] that remarriage either of one of the parties or of both, even after such divorce, is contrary to the injunction of Scripture. Yet that has not weighed with the Legislative to make it declare such remarriages illegal. The scruples of one party are not to be imposed by the penalties of the secular law upon others. It is a case, for the conscience of each person. Thus in Prussia, where the persuasions are mixed, Burge thus states the law:—

"It is left entirely to the conscience and religious principles of a divorced spouse to make use of the dissolution of the former marriage to contract a new one,'

And, therefore, even if I myself had held the argument of those who admit the liberty of remarriage in the cases under consideration to be weak and insufficient, I should still have supported the bill, or at least not have objected to its becoming law, on the ground that those who act upon a principle widely recognized as conformable to Christianity, ought not to be subject to disabilities and penalties for so doing.

The provisions of the bill are simply permissive. They grant relief where it is sought, but impose themselves upon no man's conscience. There is no interference with the liberty either of individuals, or of any body, or any section of the Church. No minister of religion is obliged to perform the ceremony of marriage under this bill; and I would extend the same relief to all marriage Registrars, for I would force the conscience of none into acting a part which he does not approve. Similarly, any Church or any school of theology, which adopts stricter views on the subject and holds itself bound by what it deems a higher and severer standard of morality, is at perfect liberty to impose that standard as a test of its communion, and to enforce its views by any spiritual sanctions at command, upon its own adherents. But those views should not be imposed by the secular arm upon the whole Christian community.

It is not doubted, indeed, that cases may arise, of the nature adverted to by my hon'ble friend Mr. Cust, where a person, even holding to the scriptural liberty of remarriage, might yet find himself (especially where there are children by the first marriage) met by arguments of the strongest expediency, amounting even to a moral obligation, not to avail himself of that liberty. But I submit that this is a case for the conscience of the individual. It is not an obligation to be enforced, as at present, by the pains and penalties of the criminal law for bigamy.

Such, then, are the reasons which induce me to vote for this Bill. Its earlier provisions must, I am sure, to be hailed by all as affording, under the procedure fully detailed by the Hon'ble Mr. Maine, the best opportunities and facilities for reconciliation and reunion;—means which, I doubt not, will often times prove successful. But where every endeavour has been resorted to fruitlessly, when the opposite party persists, after ample warning and delay, in repudiating the Christian partner, and the union, is thus at an end in fact as well as theory, the law should, without doubt, grant the liberty of remarriage.

I will now specify one or two points in which the Bill appears to me defective.

The first refers to the case in which the Hindú or Mahometan partner of a Christian convert, acting on the dogma of the civil death of the latter, may have contracted a fresh marriage. From the Christain point of view, this might he held to be bigamy or adultery, warranting the Christian to sue for divorce on that ground. But it would not be bigamy or adultery from the Native point of view; and as the case arises out of a change of religion, it might consistently be provided for in the present Bill. The Christian convert would not of course, under these circumstances, be expected to sue for conjugal society; but upon proof of the remarriage of the former husband or wife, should, without farther proceedings, obtain a decree with liberty to enter into a fresh marriage. The point can be taken up in Committee, should the suggestion be deemed ground sufficient for the alteration.

The next point is of more serious importance and involves a principle of great moment: I mean that of infant marriage. On this subject, I think the Bill has gone too far, and yet not far enough.

As my hon'ble friend, the introducer of the bill, has explained its provisions to me, it would act in this way. Suppose a boy and girl to have had the marriage ceremonial performed for them in infancy, and the boy to become a Christain: he must wait till his infant bride reaches a marriageable age. He must then claim her as his wife: on her continuing to reject his advances for six months, he must sue under this bill. The girl will be forced into Court, and subjected to all the interrogatories and private interviews already described by Mr. Maine; and at the conclusion of the period and proceedings provided by the law, on her still declining to fulfil the marriage, a decree of separation will be pronounced. Should the convert remarry without having adopted this course, he may be indicted for bigamy under the existing law, and sentenced to seven years' imprisonment with hard labour, and any person performing the ceremony of remarriage will be liable to four years' imprisonment with hard labour and fine in addition.

Sir, I wholly object to any contract or engagement to marry, being enforced by the penalties of the Criminal Law. It may be replied that this is not a mere betrothal or engagement to marry, but an actual marriage. This may be the doctrine of the Hindoos, it can hardly be that of the Mahometans, with whom marriage is a free contract: I admit, however, that it is the doctrine of the Hindoos. But surely, Sir, it is a doctrine which cannot be sustained according to the principles of any enlightened nation, with whom it is held to be of the essence of marriage that it is a contract freely entered into by the parties themselves after reaching years of discretion. The Christain Convert is surely entitled thus to regard the engagement made for him in his infancy. And from this point of view the marriage can be accounted to be nothing more than a formal betrothal.

It is agreed upon all hands that engagement or betrothal of marriage is not a class of contract, the specific performance of which ought to be enforced by the Criminal Law. But here, Sir, is something incomparably worse. For the contract was not made by the parties themselves, but made

for them at an age when they were wholly unconscious of the obligation, unconscious of the very nature of the alliance contracted for them.

I do not say that cases may not arise in which (especially among the Hindoos where the unfortunate girl would be held a widow) the betrothed husband should not use all means in his power to carry out the betrothal; but the obligation, whatever it may be, is of a nature to be judged of by the individual himself,—it is not of a character to be enforced by indictment at Criminal Law; otherwise we shall have cases such as the following, described by Sir Herbert Edwards:—

"Would it not be monstrous," he says, "that a Native Christian, who, at eighteen, married a Christian girl of his choice, should be indicted for bigamy, because, when he was two years old and two feet high, his parents betrothed him to another baby of the same age and height? Yet this might happen to-morrow."

I object also, in the interest of the girl, to this bill being applied to such cases. A maiden who had never left the female apartments might, as above shown, be summoned into Court, and forced to hold private interviews with a man she may never have seen, and for whom, in consequence of his change of religion, she may have an insuperable aversion,—an indignity alike to her own modesty and to the honour of her whole family.

Thus, forcing her to appear in Court, the Bill goes too far; while, making the release of the other party dependent on her refusal, it does not go far enough.

For these reasons, if the Bill be referred to a Select Committee, I will urge the adoption of a provision, to the effect that, if the marriage ceremonial shall have been performed between parties when under (say) twelve years of age, but shall not have been followed by cohabitation; and if one of the parties becomes a Christian, such person shall not be required to sue under this Act, but shall be free to marry without reference to the infant marriage.

Such a provision, I admit, has not hitherto been urged. But, Sir, I am persuaded that no enlightened ruler can consistently enforce by penal provisions infant marriages not followed by cohabitation. The tendency of enlightened legislation must be to regard any such ceremonial as on an entirely different footing from marriage contracted by the free assent of persons who have reached years of discretion; to regard it as a simple betrothal or engagement to marry, and as such, the ground not of Criminal indictment, but only of Civil action against the parties who object to fulfil the contract or against the persons who made the contract for them.

Before concluding, I beg permission of the Council to quote the opinion of one whose words will be listened to with attention and respect equally within these walls and beyond them, one who will not be accused either of narrow bigotry or sectarian bias, and whose labours for the welfare of India are matter of history—Dr. Duff, in an article which appeared in the *Calcutta Review*, wrote as follows:

"We have no hesitation in saying that an order or enactment of the nature suggested" (alluding to the Resolutions of the Missionary Conference already explained) "if once formally promulgated, would go far to secure the great practical object, the realization of which, the interests alike of justice and humanity unite in demanding. Sooner or later, the day must come when our Legislators can no longer evade or postpone the determination of the present and other similar questions,—the equitable determination of which, on great broad principles of Catholic jurisprudence, ought to constitute one of the leading functions of Civil Government, and one of the chief grounds of its very being." To [illegible] from "timidly grappling with such subjects is not weakness merely; it is wrong; it is wrong against those classes of the community whose natural rights and privileges demand the protection of Government, as much as their peaceful demeanour and principles of unshaken loyalty merit a return of gratitude and esteem. For they whose grand maxims of religious and civil polity are, 'Fear God, honour the king,' will ever be found not good Christians merely, but the best of citizens."

These words were written in 1845; and subsequent events have well sustained the eulogium which Dr. Duff then passed on the peaceful demeanour and unswerving loyalty of the community for whom it is proposed to legislate. But, Sir, this is a subject on which I need not enlarge. It is not a *favour* which the Bill provides for: it is a simple act of justice. The aim of this Bill is to exempt those who adopt the religion of the country which Providence has called to rule over India, from special penalties and disabilities for so doing; to exempt them from the penalty of bigamy, where bigamy was never contemplated by the law, and is proved neither by Reason nor Revelation. And as such I do not see how the Council can refuse to entertain it. At any rate it shall have my warm and hearty support.

Sir, I shall not object to the Bill being postponed for a short time beyond the usual period in Committee, in order that its principles and details may have the fullest discussion—care being taken that it is not indefinitely postponed."

The Hon'ble Mr. Taylor said that but for the observations which had fallen from Mr. Cust, he, Mr. Taylor, would have been content to have given a silent vote in favour of the motion. He did not intend to trouble the Council with any lengthened remarks on the subject. He understood that the question would not be pressed to a division on the present occasion, and that ample time would be given for the most careful enquiry as to what was the general sense of the Christian world in the matter. He would, therefore, merely take the opportunity of stating that the principle of the Bill had his entire and cordial approval, and that he would reserve to a future meeting any observations he might have to make on the various details and provisions of the important measure before them.

The Hon'ble Mr. Harington said he wished the few remarks which he proposed to make today on the subject of the Bill before the Council to be regarded, not in the way of answer or otherwise to the arguments which had been advanced in favour of or against the Bill, but, whatever they might be considered worth, as chiefly suggestive. He frankly confessed that the Bill did not approve itself to his judgment. Having said thus much, he felt it to be due to his hon'ble colleague, who had charge of the Bill, that he should state at once that the Bill bore evident marks of the very great care with which it had been prepared, and displayed the anxiety felt by his hon'ble colleague to meet the exigencies of the case in the least objectionable manner. Furthermore, assum-

ing the necessity of some measure of relief for the class of persons in whose interests the Bill was introduced, in which point probably little if any difference of opinion existed, and also that whatever the Bill proposed was the [illegible] which the desired relief could be most conveniently or suitably granted, he thought it must be admitted that the Bill contained every, or nearly every, proper safeguard or security that could be introduced into it. In this respect, indeed, it appeared to him, on his second hypothesis, that those at whose instance the Bill had been introduced, would have more cause to complain than the opponents of the Bill. His hon'ble colleague, speaking with his wonted ability, when he asked for leave to introduce the Bill, had referred to the great length of time that the question of affording relief of some kind to Native Converts to Christianity, whose wives or husbands persistently refused to live with them by reason of their conversion, had been under the consideration of the Government of India. He believed it might be said with truth that the delay that had taken place in the settlement of this important question was owing, not to any want of sympathy with the classes interested, or to any disinclination on the part of the Government of India to afford them reasonable relief, but solely to the difficulty of determining what form the relief should take, or how it could be most unobjectionably granted. As they had already been told, various remedies had been proposed at different times, but they were regarded either as open to grave objections, or as not likely to lead to any satisfactory results. There had also been former attempts at legislation, but they too had come to nothing. All this served to show the difficulty of the problem which they were required to solve, and he could not help thinking that those who regarded its solution as beyond the province, or at least beyond the reach of legislation, and who were disposed in consequence to leave matters very much as they were, were not altogether wrong. It seemed to him impossible for any one who had made law a study, or who possessed any familiarity with the administration of laws, to read the present Bill without perceiving the great difficulties which surrounded the proposed legislation, and without feeling that in practice the Bill would give rise to numerous and most serious complications which might prove injurious to the cause of Christianity in India and check its advance. He had heard it remarked that the Bill would probably prove nearly, if not entirely, inoperative, and his hon'ble colleague, who was in charge of the Bill, must excuse him for saying that this was perhaps the best thing that could happen. Opposition to the Bill was deprecated on the ground that if it would do no good, it would do no harm. The answer which he would make to such observations was, that he always had objected and always should object to placing laws on the Statue Book which were not likely to accomplish the object of their enactment. He had a great horror of what was called harmless legislation, that was, laws which if they did no good would do no harm. He was indeed somewhat sceptical on the subject of harmless laws, and he was disposed to think that laws which did not fulfil the purpose for which they were passed, were very likely to be perverted to other and to evil purposes. This was frequently the case in this country. Caste feeling, which was so strong and general in India, enabled unscrupulous persons of low caste to play off laws of the nature of the Bill under consideration upon Natives of rank and respectability, and to make them the instruments of annoyance and extortion.

But notwithstanding what he had said, he did not think that it would be expedient or right to stop the Bill at its present stage. The Government of India had pledged itself to action of some kind in the direction of the Bill. That pledge the Government was bound to do its utmost to fulfil, and if could only escape from it, or be relieved from the responsibility which it had incurred in making the pledge, on proof that its proper fulfilment was impossible. He did not think that they were now in a position to say that such was the case, and as a step towards fulfilling the promise which had been given, he should vote for the motion that the Bill be referred to a Select Committee. The reference would be followed by the Publication of the Bill in the several Official Gazettes, and, as the result, they might fairly expect to receive many valuable opinions and practical suggestions, with the aid of which they would be able in due time to re-consider the Bill with advantage, and probably so to mould its provisions, the law, as passed, if it did not come up to the expectations of the promoters of the present Bill, accomplish all that they desired, would still be the means of affording a large measure of substantial relief to a most deserving class of persons in a comparatively unobjectionable form. He had no doubt that the Bill, when published in the manner which he had mentioned, would be immediately and most carefully considered by the whole body of Christian minsters of all persuasions and denominations throughout the country, including the Right Reverend the Lord Bishops and the venerable the Archdeacons of the three Presidencies. He was willing to leave the matter in a great measure in their hands, feeling assured that they would come to a right decision. At the same time he would venture to suggest some points which appeared to him to be specially deserving of consideration.

He would ask that it should be considered whether all that was really necessary, or could properly be allowed, might not be accomplished, first, by permitting the Civil Courts to grant divorces between Native Christian husbands and their wives on the ground of adultery by the latter: secondly, when betrothment in infancy had not been followed by what completed the connubial relation, and the woman having attained an age at which, according to native custom, she should leave her family and go and reside with her husband, refused to do so on the ground of his conversion to Christianity, by permitting the Civil Courts to annul the betrothment, and to set the parties free; and thirdly, by permitting the Civil Courts, on the joint application of the husband and wife, for a dissolution of their marriage on the ground that the conversion of the husband to Christianity prevented the wife, according to the rules of her religion, from any longer cohabiting with him, then and there, or after allowing a reasonable period for reflection, to grant the application. He thought that the mutuality of this last provision, or the consent of both the husband and wife to its enforcement, would relieve it from the charge which it appeared to him might not unjustly be brought against the present Bill, that it was the unoffending party whom it proposed, under certain circumstances, to visit with what might be a severe punishment, or, at least, social degradation. It had been remarked by Mr. Muir that the Bill

would force the conscience of no man. This might be quite true, but let them look at the alternative to which it exposed the unoffending wife. He used the term "unoffending" in reference to the wife because it was in reality the act of the husband, and not the act of the wife, which prevented her from continuing to cohabit with them, and caused the separation between them. The Native husband knew full well when he married his wife, or took her home, that, if at any time he became a Christian, and she retained her religious faith, a serious obstacle would be created by his conversion in the way of her continuing to live with him as his wife. With a full knowledge of the consequences he changed his religion, and he must abide the consequences. This was what Christianity expected of its followers. As regarded betrothment, he fully admitted that, amongst Hindús, it was as binding as absolute marriage amongst other sects; but he contended that there was a very wide difference between the case of a woman who had never lived with the man to whom she was betrothed in infancy, and who had no knowledge of what the Bill, with a proper regard to decency, called conjugal society, and the case of a woman who had lived with her husband for many years, and had perhaps borne him children. There was no law, at present, which allowed the Civil Courts to decree divorce on the ground of adultery, but a Dispatch had lately been received from the Secretary of State for India, in which he recommended the passing of such a law with respect to Native Christians, and he (Mr. Harington) hoped that no time would be lost in carrying out this recommendation. He did not think that, when a Native wife not only refused to cohabit with her husband by reason of his conversion to Christianity, but allowed the rights of a husband to another man, any principle of justice would be violated by her divorce under a law such as he had mentioned, though it might be true that the husband, by changing his religion, had himself raised up the obstacle which had prevented the wife from continuing to reside with him, and had thus, by his own act, been in some decree the cause of her yielding to a temptation to which, had the husband and wife continued to live together, she might not have been exposed.

The next point which appeared to him to call specially for consideration had already been noticed by his hon'ble colleague Mr. Maine. It was whether this Bill should be made applicable alike to Native husbands and Native wives, or whether its application should not be confined to Native husbands. He held a very decided opinion in favour of the latter course, and he was glad to find that his views were supported by so high an authority as their late lamented colleague Mr. Ritchie, who justly remarked that very different considerations prevailed in the case of wives. He had never heard of a Native husband refusing to cohabit with his wife, or to allow her to live with him solely on the ground that she had become a Convert to Christianity. He believed that he was right in saying that the religion of the Native husband did not require him to separate from his Native wife under such circumstances; and instances of Native husbands having so acted, if they had ever occurred, which he doubted, were probably very rare. According, therefore, to his view, the present Bill, in so far at least as it would apply to Native wives as well as to Native husbands, went beyond the necessity of the case. He must be allowed to add that there was something very repugnant to the prevailing ideas of what was right and becoming in women, to require or allow a young Native Christian girl, say of the age of thirteen [illegible] who had been betrothed in her infancy, and had perhaps never seen her betrothed husband afterwards, to cite him before a Court of Justice for the purpose of being asked certain questions, and having been closeted with him, to address him in language such as was used by a royal female addressed to one whose chaste conduct on the occasion had passed into a proverb. This was what the Bill provided. He might be told that such a case would never happen. He sincerely hoped it never would, but, if not likely to occur, why, he would ask, should they legislate as if it might happen, or why should they make provision for it. The case of a high-born Native girl cited before a Court of Justice at the instance of a man to whom she, in like manner, had been betrothed when a mere child, but whom she might never have seen since, and subjected to the like interrogatories, or to having a similar request made to her either in public or in private, which the Bill also allowed, naturally suggested a doubt whether such a proceeding would tend to promote the cause of Christianity in India, and whether it was not open to the objection already noticed when the Native female might herself appear in the charactor of a suitor for conjugal society.

In addition to the points which he had mentioned, he would ask the Select Committee, to which the Bill would be referred, to consider whether the age at which a Native Christian husband, whose wife refused to live with him by reason of his conversion, might, under the Bill, claim possession of the persons of his children, was not much too young. He was disposed to doubt whether they should legislate at all in this Bill in respect to the custody of the children of Native Converts to Christianity born previously to their conversion. The circumstances of Native families were so peculiar and so different from the circumstances of English families, that he did not think that in dealing with the question of the custody of children they could act upon English analogies or enforce rules, which, however right and proper in England, might be totally unsuited to native customs and native ideas. He would take the case of a respectable undivided Hindoo family, all the members of which, male and female, lived together as one household. A male member of the family was converted to Christianity and became in consequence an out-caste: he had a son and a daughter, say of the age of thirteen and fourteen, both of whom had been betrothed in their infancy with their father's consent, or by him acting in their behalf, to persons of the same sphere of life and of the same religious persuasion as themselves. Should the father, after his conversion, be allowed to claim the custody of these young people and to compel them to live with him as a Christian, whereby they also might lose caste, he, Mr. Harington, would ask the Council to consider the complications to which this might give rise, and the consequences which might ensue. The Bill provided that if a Native husband who should have remarried returned during the time of such re-marriage to his first love, as men were wont to do, the intercourse would be adulterous; but supposing the Native wife whose husband had remarried, instead of availing herself of the option given to her of re-marrying also (an option which he believed he

mi[illegible]safely say would rarely if ever be taken adva[illegible]rge of) should yield to some man other than [illegible] husband the ri[illegible]s of a hus[illegible]nd, would this [illegible]r man be gu[illegible] of adulter[illegible] be liable to t[illegible]nalties pres[illegible]ed by the [illegible]an Penal Code for that offe[illegible]. According to the Code of Criminal Procedure, a charge of adultery must be preferred by the husband of the w[illegible] against the man who co[illegible]ritted the offence [illegible] her. The husband, who might, under t[illegible]il, commit adultery with his own wife, was n[illegible] likely to prosecute himself for the offence, but would he be at liberty to prosecute any other man, which it was not improbable he might do? He did not think that this should be permitted; but as the Bill stood, it appeared to him that it would be allowable.

There were other points of detail in the Bill, calling for notice, but these might be left for consideration by the Select Committee. Before concluding his remarks he wished to observe, with reference to the opinion of Sir Barnes Peacock, cited by Mr. Muir, that if he, Mr. Harington, recollected rightly, Sir Barnes Peacock had, in the papers from which Mr. Muir had quoted, given it as his opinion that the laws of God which were applicable to Europeon Christians were equally applicable to Native Christians.

Having now noticed the various points connected with the Bill which appeared to him to be specially deserving of consideration, he would only further say that should the result of the publication of the Bill show that it was viewed favorably by a very large majority of the Indian Clergy, including under the head Christian Ministers of all denominations, and that in the opinion of such a majority the Bill should become law, he should not consider it consistent with his duty, should he have the honor of a seat in that Council when the Bill again came on for discussion, to offer any opposition to the passing of the Bill. On the other hand, if, in the words of his hon'ble colleague, Mr. Maine, the preponderant feeling should be shown by the result of the publication of the Bill to be against the Bill, and its enactment should be regarded as objectionable, either on religious or on political grounds, he felt sure that the Council would not consider it right or expedient to proceed further with the Bill.

The Hon'ble Mr. Anderson.—"I am unwilling to avoid, Sir, the responsibility of taking a part in this debate, though I feel I can contribute nothing to the discussion, in addition to what has been stated by the hon'ble mover and the gentlemen who have preceded me. I confess that I have always dreaded the necessity for the introduction of a Bill similar to that now before us. I have always been accustomed, as a servant of Government, to advocate a stringent adherence to the policy of a complete abstinence by Government from all interference with the religious prejudices of the natives of this country. I have invariably ranged myself with those who consider that Government education in India should be strictly secular education, and the more I have seen of the operation of the Educational Department in the part of India in which I have served, the more convinced I am that such instruction can be imparted to the incalculable benefit of the governed, without any prejudice to their religious feelings and without any prudish reserve as to simple historical facts. I hold these views not merely from a fear of what may be the results of an opposite policy,—results which I shrink from contemplating—but from a higher feeling, that non-interference with the religion of the governed, is the great Charter of the subjects of our Indian Empire, that it is the peculiar glory of our rule, that we have never sought to propagate our faith by any exhibition of force or by any offer of sordid inducements. Holding, then, as I do most strictly, that the maintenance of this policy should be absolute, consistent, and veracious, the subject of this Bill is one which I should have been glad to see the Legislature avoid, if it honestly could; and I must even now say that if I thought the proposed measure was in any remote degree a part of an organization to induce the Natives of this country to change their religion, it should have no support from me. But the appeal which is made to us is not to our Christianity, but to our sense of justice; and I am compelled to say, that in my opinion it is an appeal which can rightly receive but one answer. A subject says to us: 'On account of my religious opinions, my wife refuses to dwell with me: either compel her to do so, or let me go free.' I hold this to be a just demand, but I regret to find that such is not the view of the Clergy of the Established Church of England resident in Calcutta. I do not propose to dwell at any length on their petition, for it is one of the many difficulties which surround this subject that, without the exercise of great caution, it may involve us in discussions which are not suitable to the deliberations of this Council. I will make, therefore, but one general remark. The Clergy of the Church of England have many claims on our respect as a body: they have exhibited great piety, learning, purity of life, and sympathy with suffering; but I cannot say that it has come within my experience that I have ever heard that it has ever been presented to me as a fact in the course of my reading, that the Clergy of the Church of England have in any conspicuous degree, or indeed in any degree at all, displayed any vocation towards celibacy. I do not impute this to them as a reproach. The celibacy of the Clergy as an institution has had its uses: it probably, during the dark ages, saved us from the curse of an hereditary Priesthood; but in the nineteenth century I should as soon suggest to a dignitary of the Church to assume the part of Simeon Stylites, and to be the incumbent of a pillar on Salisbury Plain, as I would urge on him the virtue of celibacy. But have we not a right to say to these Reverend Gentlemen, if you, with your intelligence and high aspirations, with all the resources of science and learning at your command, still find it not expedient to be as St. Paul was, are you justified in withholding relief from the poor Hindú, whose religious convictions, it may be, have succumbed to your dialectic power? Does not such a course savour of the practice of that straitest sect of which St. Paul was a member, before he received his commission to Damascus? Are you not imposing a burthen grievous to be borne, which you will not touch yourselves with one of your fingers? But I am not inclined to dilate upon this petition, especially as the propositions put forth in it are not supported by any reasons. I can only at present say that these propositions do not command my concurrence. But I would remark that it will be largely subservient to the ends of good government, if the gentlemen who have signed the petition will state their views freely and at length, during the con-

siderable time which must elapse before this Bill comes on again for discussion. For I am very glad that my hon'ble friend, the mover, has determined to give every opportunity to the Public, and especially to the Native Public, to express a deliberate opinion upon this measure. It is a very difficult duty for Europeans to legislate on such a subject, and I know of no question which so imperatively demands a careful expression of Native opinion as the one now before us. If the intelligent portion of the Native community will give this Bill a candid and careful consideration, they will very possibly be able to submit objections which are not likely to occur to our minds; but I do not think they will be able to say that this Bill has been devised with a view to induce Hindús and Muhammadans to embrace Christianity, or that through this Bill a man will be likely to become a Christian in order to obtain another wife. On the contrary, I think they will see that he will far more easily obtain another wife by adhering to his original religion. If we are to deal with this question at all—and I confess I think we are as much bound to afford to this class of our fellow-subjects the relief they seek, as we are bound to protect their persons from ill usage and their property from destruction—if we are to deal with this question at all, I do not think it possible that a measure more moderate, more cautious, one exhibiting more earnest anxiety to do justice, and only justice, could have been submitted, than the one which has now been introduced. I trust that, if no solid objections are hereafter advanced, it may eventually become law."

His Excellency the PRESIDENT said that whatever might be the fate of the Bill, he thought that those who were opposed to it exercised a wise discretion in agreeing to allow it to go before a Select Committee. Only in that way His Excellency thought could the pros and cons be fairly deliberated upon and fully considered. Judging by the light of his own experience, His Excellency thought that the hardships imposed on a Native Christian of this country were very great, and that we were bound in duty as Statesmen and Legislators to give them relief, as far as we could do so, fairly and honestly, with reference to others who were interested in the measure. When we considered that the Native Christian Convert had been bred up under peculiar laws, under peculiar customs, under a peculiar system, which allowed and encouraged polygamy, it became a peculiar hardship to that convert, when deliberately repudiated by his own wife or her own husband on account of the change of religion, that Christianity should enforce celibacy, and that no relief should be granted by the Legislature. It seemed to His Excellency only reasonable, fair, and just that relief should be granted, and that such relief could be no just cause of aggravation or irritation to any of the persons concerned.

The Hon'ble MR. MAINE in reply said:—"Sir, the wide difference of opinion as to principle which has shown itself between your Excellency and my hon'ble friend Mr. Muir on the one hand, and my hon'ble friends Mr. Harington and Mr. Cust on the other, goes, I think, some way to justify my view that the only mode of solving this difficult question is by requiring those who, by their active exertions, have added to Indian society this class with whose interests we have such difficulty in dealing, to take upon themselves, and to relieve the State from the responsibility of saying when their Converts ought or ought not to be remarried. Deeply, however, as Mr. Harington and Mr. Muir differ, they seem to agree in considering the unconsummated marriages between children may legitimately be neglected, and that after a mere betrothal, a Christian Convert may be allowed, without more, to re-marry. Of course, Sir, from the point of view which I feel myself compelled to occupy for the purposes of this discussion, the point of view of secular morality, there is much to be said against infant marriages. I have never conversed with an educated Native gentleman who did not allow that these marriages are deeply injurious to the morals of native society. I fear, however, that if we allowed a young man to acquit himself of the obligations which Hindú Law and his family have imposed upon him by the mere fact of having changed his religion, we might expose this measure to imputations which cannot, I think, be justly brought against it as it stands; we might open the door to grave abuses, and certainly should give room for great scandal. On the whole, I think that the safer course is that the Convert should allow his wife an opportunity of joining him when the period of infancy has gone by. But it is a point for consideration in Committee whether, in the case of a marriage not followed by cohabitation, some of the interviews and interrogations provided by the Bill might not be dispensed with. My hon'ble friend Mr. Harington enquires whether the Missionaries will not be satisfied if, in addition to a measure permitting their Converts to neglect mere betrothal, a law allowing divorce on the ground of adultery be enacted. There is reason to believe that Her Majesty's Government is likely to introduce into the British Parliament a measure giving Indian divorces between Christians the same effect as if they had been decreed in the English Divorce Court. And if such a measure be passed, it will certainly be the duty of your Excellency's Government to introduce into this Council a Bill providing for the dissolution of marriage on the ground of adultery and applying to all Christians in India, Native as well as European. But, Sir, when it is contended (I do not know whether my hon'ble friend so contends, but it is sometimes contended) that such a law can be regarded as a substitute for this measure, the argument is one which I regard with the extremest repugnance and dislike. For, stript of all disguise, it seems to me to come simply to saying this: "If you will only hold your hand, if you will only do nothing, the heathen wife is sure to be guilty of adultery, and then you may divorce her without shock or injury to the conscience of the Christian world.' Now, Sir, it is one of the recommendations of this Bill in my eyes that it protects the morality of the Heathen wife no less than the morality of the Christian husband, and, by permitting her to remarry, displaces, so far as legislation can displace, that ground of divorce which some persons seem to think more satisfactory than the practical defeat of the objects of marriage.

As regards the observation of my hon'ble friend that the Bill inflicts a punishment on the wife, who, according to her own views, has been guilty of no wrong, the answer is that, in all civilised societies under express law, and in all uncivilised societies under law expressed or unexpressed, there exists a proceeding analogous to the suit for

restitution of conjugal society. It is true that the enlargement of sentiment and manners in Europe rarely allows this proceeding to be resorted to; but legislators have not thought fit to expunge it from European Codes, and, indeed, in more than one European Code it has latterly been made more stringent. It will generally, indeed, be found that in proportion to the repugnance of the framers of a body of law to divorce is the stress they lay on the rule that the wife must always be with her husband—a rule which they occasionally enforce by criminal penalties. Nor is any loathing, however deep, a reason for not executing the obligation. Now, will you compel the heathen wife to rejoin her Christian husband against her will? You cannot, and I may almost say, you dare not. But if this be so, the word punishment is entirely inapplicable to a measure like this, for, whatever be the penalty you inflict on the wife, it is a penalty which, according to her views, is infinitely slighter than that which, according to the principles both of civilised and barbarous law, she might be compelled to submit to. Strictly speaking, she should join the husband whom she loathes with a loathing unknown in Europe. But instead of forcing her to do so, you permit her to remarry and protect her in her personal and proprietary rights.

Of course in my hon'ble friend's appeal to the Bishops, the Clergy, and the Missionaries carefully to consider this measure, I most heartily concur; and I deliberately abstain from replying to much that has been said by Mr. Cust and Mr. Harington, because I think that the answer will come with much more grace and with much more effect from those to whom this appeal is addressed. But, Sir, I have read so much of the sort of communications which may be expected to be elicited by this appeal that I may be pardoned for offering, with the greatest respect, a few cautions. Sir, if the Missionaries or the Clergy can establish that the morality of the converts will be injured by the Bill, that will be a fact of the highest importance. If, again, they can show that the conscience of the Christian world will be shocked by this measure (and of course we can only know the feeling of the Christian world by ascertaining the feeling of its various sections,) that, too, will be a fact of which this Council will be bound to take notice. But if they are tempted to enter into purely theological arguments as to how and when and why these marriages are lawful or unlawful, I would ask them merely to read the list of the members of this Council, and to say with what decency it can be required to decide whether such considerations are right or wrong, sound or unsound. A second caution I have to give is this: the gentlemen who have signed the single petition against the Bill which is in the hands of members, affirm, with some boldness, that the Native wife comes over to her husband in the great majority of cases. My own information contradicts this; and I have generally found that those Missionaries who have doubts as to the Bill confine themselves to alleging that, if some long period of time be taken, such as eight, or ten, or twelve years, the probability is that the wife will come over. Indeed, as it is only recently that great success has been obtained by the Missionaries, there has not been time for the attainment of more than a probability. But, Sir, the assignment of these long periods of time constitutes no answer, I must say, to my argument, that is, to the secular and moral argument. For the obvious rejoinder is, what sort of life has the Convert been living in the interval?

I will venture yet another remark for the consideration of gentlemen who may respond to my hon'ble friend's appeal. It has often struck me that, in abstract or moral questions which appear hopelessly insoluble, a great part of the difficulty usually arises from persons confidently employing words without having quite ascertained their meaning and their true relation and correspondence with things. I would ask the opponents of this Bill whether they are quite sure of the sense in which, for the purposes of this controversy, they used the terms 'marriage,' 'divorce,' and the like. The theory which they hold, I believe, is that marriage is a civil institution, consecrated by Christianity: consequently, they take the definition of what constitues marriage from the civil and secular law, and, in this country, from the Heathen law; but the incidents and consequences of marriage they interpret by Christian law. It is obvious, however, that the theory breaks down in its application to polygamous societies, for each one of many wives is as much a wife as the others, so that those who hold this view are compelled to take a mere fragment of the secular definition and prop up the theory with it. And it illustrates the difficulty of the question that, as I can assure the Council, we shall probably, in Committee, have to take account not only of polygamy in the ordinary sense, but of polyandry, to provide for the case not only of a man having several wives, but of a wife having several husbands. It is only because I await fuller information as to the degree in which the Civil Courts in the South of India recognise this practice that I have omitted all reference to it in the Bill. In short, Sir, if we take India as a whole, I believe it will be found that the forms of marriage are so monstrous that it is impossible to make them fit in with civilised, and still less with Christian theory. It would seem, therefore, that we are thrown back on the very foundations of the institution of marriage. Accordingly I would submit to those who doubt the principle of this measure whether a reasonable theory (I will not say *the* reasonable theory, but *a* reasonable theory) be not that of the Roman Catholic Church, which, as I understand it, is that, while the most serious efforts should be made to bring over the heathen wife to her husband, the heathen marriage, nevertheless, has in itself no such sanctity as will compel the Missionaries, out of respect to it, to acquiesce in the defeat of the practical objects of marriage. However that may be, as to what should be the secular view, I have no manner of doubt. I consider the creation of a celibate class fatal to morality in India; and when the gentlemen who have signed this petition express a fear that the measure may lead the heathen to believe that Christians think lightly of the institution of marriage, I would beg them to ask any Native gentleman whom they can depend upon to give a frank opinion what he thinks of a proposal that celibacy be practised for a series of years by a Native Christian, or any other Native? I must repeat what I said in the first debate on the subject, that if no such measure as this be passed, there is too much reason to fear that the Missionaries, with the very best intentions, at the cost of enormous self-sacrifice and immense self-denial, will, nevertheless, in effect be propagating immorality in the name of Christianity."

The Hon'ble Raja Sahib Dyal Bahadur said that, in his opinion, the passing of this Bill would be contemplated with grief by the people.

The motion was put and agreed to.

Acts and Regulations' Extension Bill.

The Hon'ble Mr. Harington moved that the Report of the Select Committee on the Bill to authorize the Governor-General of India in Council to extend to the Non-Regulation Provinces under the immediate administration of the Government of India certain Acts and Regulations not in force in those Provinces, be taken into consideration. He said the only alteration of any consequence which the Select Committee had made in the Bill was the introduction of a section giving the Governments of the North-Western Provinces and the Punjab power to extend to the Non-Regulation territories under their respective Governments any Act or Regulation of the Government of India, passed previously to the date upon which the Bill would come into operation, not in force in these Provinces,—thus carrying out the suggestion to which he had referred when introduced the Bill.

The motion was put and agreed to.

The Hon'ble Mr. Harington also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to legalize, under certain circumstances, the remarriage of Native Converts to Christianity:—The Hon'ble Messrs. Harington, Maine and Anderson, the Hon'ble the Mahárájá of Vizianagram, and the Hon'ble Messrs. Taylor, Muir and Cust.

The Council then adjourned.

Whitley Stokes,
*Offg. Asst. Secy. to the Govt. of India.*
*Home Dept., (Legislative).*

Calcutta,
*The 6th January* 1865.

## *Government of Bengal.*

### Cyclone of the 5th October 1864.

Special Narrative.

Herewith I have the honor to forward, by direction of the Lieutenant Governor, copy of the correspondence relative to the destructive Hurricane which visited Calcutta and the neighbouring districts on the 5th October last, and to the measures of relief which were adopted by the Public and by the Officers of Government in order to mitigate the effects of the calamity.

From a Note recorded by Colonel Beadle, the Chief Engineer to the Government of Bengal, it appears that the gale had its origin at some point at sea in the latitude of Kyouk Phyoo (19° north) and about 100* miles west of the Arracan Coast. Travelling from that point at first in a westerly direction, and inclining afterwards to the north, it first struck the Coast of Bengal about the Balasore Roads and Hidgellee. Here, during the night of the 4th, it raged with great violence, and from this point the centre of the storm appears to have travelled in a northerly direction with a slight inclination eastward along the right bank of the Hooghly, at a pace varying from eight to twenty-six miles an hour. The full violence of the storm was felt at Calcutta from 10 A. M. to 4 P. M. of the 5th October, and about seven hours later at Kishnaghur. The direction of the storm remained the same throughout the greater portion of its course. It crossed the Ganges between Rampore Beauleah and Pubna, sweeping over the whole length of the Bograh District, and only taking a recurvature to the eastward when it had reached the degree of 25° north, after which it became expended in the Garrow Hills.

* It has, however, been subsequently ascertained that the gale took its origin somewhere about the Andaman Islands.

Origin and direction of the gale.

The destruction caused by the gale was two-fold. There was first the violence of the wind, to which is to be attributed the wide-spread destruction of houses and of trees; and secondly, there was a storm wave which the gale brought up from the Bay of Bengal and drove in front of it up the line of the River Hooghly, and over the country on either side of it for a distance of several miles. It is needless to say that this wave, rising, as it did, in some places to a height of 30 feet, sweeping over the strongest embankments, flooding the crops with salt water, and carrying away entire villages, was very much more disastrous in its effects than the mere violence of the wind.

Destruction was of two kinds.

The injury caused by the gale in the Town and Suburbs of Calcutta is given in detail in the Report from the Commissioner of Police, dated 17th October, No. 1287. The damage was principally done in the northern part of the Town, where the native huts were blown down in great numbers. Even there it turned out to be less than had been at first anticipated, and the loss of life, considering the number of houses and of trees blown down, was providentially very small. The table in the margin gives a tolerably accurate return of the loss of life and of the destruction of houses. The damage done to the shipping in the river will be noticed in another part of this Narrative. For a day or two after the storm, many of the roads, both in the Town and Suburbs, were obstructed by the numerous large trees blown down. These were for the most part removed without delay; but the destruction of the finest trees in and around Calcutta has inflicted an injury on the Town from which it will take many years to recover, and the quantity of broken boughs and leaves which were blown into

Injury caused by the gale in Calcutta and the Suburbs.

| | Europeans killed. | Europeans wounded. | Natives killed. | Natives wounded. | Masonry houses destroyed. | Masonry houses damaged. | Tiled and straw huts destroyed. | Tiled and straw huts damaged. |
|---|---|---|---|---|---|---|---|---|
| Calcutta ... | 1 | 1 | 16 | 12 | 37 | 299 | 1,322 | 3,625 |
| Suburbs ... | 1 | ... | 31 | 3 | 65 | 264 | 39,376 | 969 |

the leaves from the trees surrounding them, has in many places so deteriorated the water as materially to affect the public health.

HOOGHLY.—The gale was felt with great severity over the eastern and southern portion of the Hooghly District. The loss of life reported by the Police is given at 112, but no computation has been made of the number of houses blown down, or of the value of the property lost in the district. The Civil Station of Hooghly suffered severely owing to the buildings being for the most part very old, and the town of Serampore also was extensively injured.

BURDWAN.—The district of Burdwan has not suffered to any great extent, but at Culna a large number of boats were wrecked, and consequently much valuable property was lost.

NUDDEA.—The storm was felt with equal violence all over the Nuddea district, the vortex passing close to the Sudder Station of Kishnaghur. The full violence of the storm was not felt there till 5 P. M. on the 5th, from which time till 7-30 P. M. "it blew with terrific force from the east and north-east. A calm of about half an hour's duration then succeeded, after which the storm blew with nearly the same violence as before, but from a north-westerly direction. At about 9-30 P. M. it ceased." The Government Buildings, the Railway, the Telegraph, and the Native Towns all suffered severely. No accurate returns of the loss of life have been received, but it is known that fourteen persons were killed by the falling in of houses. The loss on the rivers cannot even be approximately estimated. The rice crop is not supposed to have suffered much, but the sugar-cane and pepper crops were much injured.

RAJSHAHYE.—At the Sudder Station of the Rajshahye district the storm continued all through the night of the 5th, the hours during which it raged most heavily being from 10 P. M. till 2 P. M. It blew first from the north-east, then from the north, shifted round to the north-west, and gradually got round to due west, when it subsided.

Both at Rampore Beauleah itself and throughout the district the damage done to native huts was considerable, but little life was lost, one case only having been reported. At Pubna the Government buildings suffered considerably.

BOGRAH.—The gale was felt very severely at Bograh. Its full violence did not commence till 2 A. M. on the morning of the 6th, and the wind is stated to have been mainly from the east and south-east. The damage done was very great. The Jail was blown down and the other Government buildings all suffered. The Bazar was laid in ruins and a number of boats went down at the Ghats; no loss of life, however, occurred on the river, but in the town twelve deaths were reported.

In all the districts hitherto referred to, the loss of life and property was occasioned solely by the gale. In the districts to which allusion will now be made, the principal agent of destruction was the storm wave which the gale drove up from the Bay of Bengal, and which, carrying away or over-topping the embankments on either side of the river, spread ruin and devastation to a distance of some eight miles inland; and only after its force was expended by being spread over this extent of country, and after it had arrived within twenty miles of Calcutta, was it so far diminished as to be confined in the main within the actual river banks. Had the embankments below been of size and strength sufficient to keep this wave within their boundaries, the result to Calcutta would have been infinitely more disastrous than it was, and the total destruction of life and property would have been immeasurably greater.

HOWRAH.—The total destruction reported in the Howrah district is given in the accompanying Table. Of this destruction, the figures opposite the two last headings alone represent that caused by the irruption of the storm wave over the country. The destruction in the first eight Police Stations is due mainly to the gale. The computed loss of property is compiled from the statements of the sufferers, and from the especial proneness of natives to exaggerate misfortunes of this kind, it is not doubted that the figures in regard to property destroyed are unreliable. The Superintendent of Police is of opinion that half the amount stated would be a fairer approximation to the truth. A great portion, however, of the loss and damage caused in this district is of a kind which cannot be accurately estimated. The injury done to fruit-trees and gardens (which, in the vicinity of Howrah, were very numerous and supplied a great portion of the Calcutta market) is very extensive, and it will take years before the loss is completely repaired. The loss of 12,000 head of cattle, too, is one which will be severely felt for a very long time, though a number of those killed in this district were only passing through on their way to the Calcutta market from other districts, and the loss is thus distributed over a larger area. The damage done to the crops in the southern part of the district is very great, and as yet it is impossible to say how far the flooding of the land with salt-water may have deteriorated the productive powers of the soil in those parts for several years to come. Similarly with the tanks, which have become, for the present, unwholesome and even poisonous, it is difficult to say how long it will take for these to become fit for use. It is known that even in a soil impregnated with salt, they do become wholesome after a time, and it is stated that already the water in those which were inundated with the salt wave has begun to turn sweet.

| | Number of persons killed or drowned. | Number of cattle killed. | Number of masonry houses destroyed. | Number of mud houses destroyed. | Computed value of property lost. |
|---|---|---|---|---|---|
| | | | | | Rupees. |
| Seebpore ... | 2 | 0 | 50 | 2,775 | 70,000 |
| Howrah ... | 3 | 8 | 47 | 1,723 | 2,22,900 |
| Golabarry ... | 5 | 50 | 50 | 5,000 | 1,00,000 |
| Bally ... | 0 | 12 | 5 | 5,262 | 94,611 |
| Domepore | 13 | 250 | 23 | 35,114 | 12,92,897 |
| Juggutbullubpore | 5 | 176 | 83 | 7,094 | 4,83,247 |
| Amptah ... | 32 | 455 | 28 | 24,678 | 5,57,021 |
| Bagnan ... | 6 | 72 | 2 | 25,000 | 6,54,721 |
| Shampore ... | 1,487 | 9,307 | 11 | 24,641 | 3,70,709 |
| Ooloobariah ... | 425 | 2,432 | 17 | 18,871 | 22,03,725 |
| Total ... | 1,978 | 12,762 | 316 | 1,50,158 | 60,49,831 |

MIDNAPORE.—In the district of Midnapore, the southern and eastern portion of which was exposed to the full violence of the storm wave, the effects have been most disastrous. The returns from the various Police Stations show the total loss of life there to have been 20,06[illegible]. There are no means of obtaining accurate returns of the loss of property, but a detailed account of the observations made personally by the Magistrate will be found in the enclosures of letter No. 169, dated 23rd November 1864, from the Commissioner of the Burdwan Division. The following is an extract from his Report, which refers to that portion of the district which lies between the Russulpore and the Roopnarain Rivers, and will serve to show what the loss of life was in the places which were most exposed to the destructive influence of the storm wave:—

"The loss of life through the whole track from the Russulpore to Kookrahattee has been very large, but specially so above Kedgeree. Between Kedgeree and Kookrahattee we saw no one who had not lost large numbers of his relatives. The Police of the Kedgeree Station have knowledge of 1,585 deaths throughout formally reported to them. The people of Goomghur estimate their loss at three-fourths of the population, and Sooruthram Prodhan, the Naib of Dorodoomnan, says that in Mr. Collector Bayley's time he estimated the population for that Officer at 15,000, and that he numbers the survivors of the inundation at 5,000. As the population of a locality so notoriously prosperous must have much increased since Mr. Bayley's time, this gives a very serious estimate of the loss; whatever may be thought of it, it is certain that the proportion of lives lost to population has been very great. A case of dacoity from the neighbourhood of Nundee Goan had been committed to the Sessions with thirty-two witnesses. The Police have reported that only two of them are forthcoming, and though I have ordered further enquiry on the point, the circumstance may be noted here even though eventually it may be found that the missing thirty have not all been lost."

The height of the storm wave varied very much. On the southern coast, actually exposed to the sea, the storm wave nowhere attained any extraordinary height, and did not to any noticeable extent breach the sea face of the great Dyke of Hidgelee, which extends from the Subornorekha to the western bank of the Russoolpore River. As, however, it struck the western coast forcing itself up the channel of the Hooghly, its height became greater and its violence more destructive. Thus on the southern face of the sea dyke its height is stated to have been only 4½ feet, but as it approached the Russulpore, its height increased. At Goonput it was 11 feet 6 inches, and at Dowlutpore 30 feet 3 inches.

Above the Russulpore River it rose still higher, and the embankments here being constructed only to oppose the waters of the river, and consequently much lower and less massive than those of Hidgelee, which have to resist the violent storms from the Bay, were everywhere over-topped by the waters and formed no effectual resistance.

The crops even in the districts over which the storm wave passed, are by no means entirely destroyed. Happily the water drained off from a great portion of the land very quickly, and the deposit of salt was not such as to destroy the crops growing there. Where, however, the water did not at once drain off, the crops have been greatly injured, and in the three Pergunnahs of Bograie, Khaleesa Bograie, and Gomesh the loss of the crops is estimated at one-fourth of the whole. In Goomghur, Dorodoomnan, and Mysadul the loss is far worse, and it is anticipated that scarcely one-fourth of the crop will be saved.

The loss of cattle in this district is computed to be not less than 40,000 head. The number of houses destroyed cannot be estimated; but at Tumlook, (which, though exposed to the full severity of the gale, was less severely visited than places down the river by the storm wave,) it is stated that out of 1,400 houses, only 27 remained standing.

The loss of Government salt and the damage done to Government buildings will be noticed in another portion of this Narrative.

24-PERGUNNAHS.—Not less disastrous than in Midnapore were the effects of the storm throughout the southern and western portion of the 24-Pergunnahs. There also the storm wave, commencing at Saugor Island, swept over the embankments, destroying huts and villages within a distance of eight miles from the river, and ceased not in its work of destruction till it reached Atcheepore. Saugor Island suffered perhaps more extensively, and the destruction there was more complete than in any other portion of the tract visited by the storm wave. Striking it at once on its western and on its southern face, the wave carried away the embankments, utterly destroyed all the houses, huts, golahs, and buildings, and left scarcely any living creature on the island. The few human beings that escaped were saved either by climbing up trees or by floating on the roofs of their houses, which the wave swept on to the mainland and carried inland many miles. At first it was reported that 90 per cent. of the population had perished, but it is found that out of a population of nearly 6,000 souls, there is still a remnant left of 1,488. The cattle destroyed in the flood were 7,000, and the houses 3,565. The storm wave at Saugor Island was fifteen feet above the level of the land, and it appears to have cut a channel straight across the island dividing it into two halves.

The statistics from the other portions of the 24-Pergunnahs are by no means so accurate as from Saugor Island. The Police Returns give the total loss of life, including that at Saugor Island, as 12,000. The estimate of Mr. Payne, a Missionary who has been assisting in distributing relief over that part of the country, is based on separate information, and his calculation is that in all villages within one mile of the river, the loss of life was 80 per cent., and in other villages within the area over which the destruction of the storm wave extended, the loss was from 30 to 40 per cent. The loss in cattle is estimated at 80 per cent. The distress and suffering to which the survivors were exposed after the disaster was very great. For several days it was impossible for them to obtain food; the local stores had been swept away, and for three or four days there were no means of sending relief from Calcutta. In some places they were known to be eating a kind of grass, and at a few places where the storm wave had not extended in all its violence they broke open and plundered the stores of the rice merchants who refused to distribute or (it is alleged) to sell their grain.

In the tract above referred to, the Sub-Divisional Station of Diamond Harbour is situated, and the loss there was excessive. The wave there was eleven feet high, and the scene which the place presented

a few days after the storm was most lamentable. The following is an extract from the Report of the District Superintendent of Police who visited the Station on the 12th October :—

"The hurricane of the [illegible] instant was the accompanied by an inundation of the river along the coast for about eight miles inland. The disastrous effects which meet the eye on every side within the limits I have mentioned prove that the water must have risen unprecedentedly high and advanced with fearful suddenness.

"After passing the village of Futtehpore, about eight miles from Diamond Harbour, the effects of the inundation are visible. The villages on either side have all suffered more or less. Some have been completely swept away, with only the floating wreck of houses, carts, &c., &c., to show where they stood. Others have been partially destroyed, only the houses that were situated on the lowest ground having been swamped. As the country is still under water, it was impossible to go into the villages and ascertain the exact amount of loss of life and property sustained, but the sights which met the eye on the road itself proved but too painfully and clearly that the loss of life must have been immense. I do not think I am going beyond the mark in saying that within six miles of Diamond Harbour it is impossible to go fifty yards on the road without seeing a human body. These are evidently the corpses of individuals who were overtaken by the storm and the flood on the road. What the loss of life must have been in the villages may be imagined. In some villages every house has been swept away with almost all the inhabitants.

"The Deputy Magistrate's house is so badly injured as to be almost uninhabitable. The Kutcherry house is a mere wreck. The Lock-up is standing, but the wall that surrounded it has been destroyed. A pucka building occupied by the Police Guard has fallen in. The Telegraph house has sustained severe damage, but is still habitable. The Custom House is comparatively but slightly injured.

"As far as my own Department is concerned, every Police Station in the Sub-District has been either blown down or swept away ; two Head Constables belonging to the Govindopore Police Station were drowned. Several Constables belonging to the various Stations are missing ; their fate is as yet unknown. Nearly all the Station records and articles lodged in the Malkhanahs are lost ; most of the Officers and men have lost their uniform, accoutrements, &c.

"On the 7th instant, two days after the storm, a large number of men, it is said about a thousand, came to Diamond Harbour and commenced taking away salt from Mr. Fraser's Salt Golahs. The men were literally starving ; they had no food for two days ; they wanted the salt to mix with a kind of grass which they eat eagerly. At this time there was only a Head Constable and nine Constables present. They interfered to prevent the plunder of the Golah, the mob turned on them savagely and beat them off ; the Constables had only batons ; that they did all that men could do under the circumstances is proved by the marks of severe beating they almost all bear ; the fearful hardships of the two past days had almost driven the survivors mad. Even if a larger party of Police had been there, is difficult to know how they could well have used more force towards men under such circumstances ; and though the unfortunate people can scarcely be blamed, it is impossible not to sympathise with Mr. Fraser, who has been a very heavy sufferer.

"I cannot close this Report without mentioning that, as I rode along the road, men came out on all sides, stating that they had not eaten for days, and imploring assistance. Their looks fully bore out their statement. There is every reason to believe that the destitution at present in the Diamond Harbour Sub-District is appalling ; not only have the bazars and golahs with their supplies of rice been swept away, but the inhabitants have lost nearly all the means to procure food from elsewhere. I am afraid, unless prompt measures are taken for their relief, that famine and sickness will sweep away those who have escaped the inundation.

"I must not forget to add that the sufferings of the people have been much aggravated by the want of fresh water. The same inundation, which was so destructive to life and property, rendered all the fresh water for about fifteen miles inward, brackish and unfit to drink. I send fresh water every day from Bistopore for the use of the Police."

The deaths in other portions of the district have been much less, and those which have been reported are noted in the margin. Houses, huts, and trees have been blown down in every direction, but this loss, which was caused merely by the gale, is not to be compared with that which was caused by the storm wave in combination with the gale. The rice crop in these parts has not been much injured, but the sugar-cane and pepper crops have suffered severely.

| | |
|---|---|
| Sudder Sub-Division ... | 49 |
| Baroepore " ... | 19 |
| Nyehatty " ... | 8 |
| Nowabgunge ... | 11 |
| Dum-Dum ... | 7 |
| Busseerhaut ... | 8 |

Destruction of Shipping in the river.

By far the greatest amount of damage caused by the Cyclone was to the Shipping in the river. There were, on the morning of the 5th, 195 vessels within the limits of the Port. As long as they had only to contend against the violence of the wind, or up till about 1 o'clock in the day, they rode out without much damage, but when to this was added the wave, the force of which was still not entirely expended, one vessel after another drove from her moorings, and as each ship was swept on, she fouled others in her course, and they carrying others with them, getting massed in hopeless and inextricable confusion, were driven in heaps on the opposite shore. It appears that 145 vessels were driven on shore, and that ten were sunk in the river. Of these the *Gobindpore*, a magnificent new ship of 1,200 tons, capsized and sunk off the Custom House ; the crew were saved by the gallantry of a Sailor named Cleary, who swam off to the wreck with a line, by means of which all got safe to shore. The ship *Ally* had left the Port the previous day and met the gale a little below Diamond Harbour. She had on board 335 Coolie Emigrants for the Mauritius, and went down with all on board save seven of the crew and twenty-two of the Emigrants.

A detail of the ships lost and injured, and of the progress in recovering them, will be found with the Master Attendant's letters No. 2479, dated 18th October, and No. 2814, dated 8th November respectively. The results are briefly summarised in the statement below :—

| | | |
|---|---|---|
| Number of vessels in Port on 5th October ... | | 195 |
| Number damaged slightly ... ... ... | 39 | |
| Number damaged severely ... ... ... | 97 | |
| Number totally lost *(a)* ... ... ... | 36 | |
| | — | 172 |
| Number not damaged ... ... ... | | 23 |

Notwithstanding this wholesale destruction and damage, it will be seen from those reports that by 19th October, i. e., a fortnight after the gale, 101 vessels that had grounded had been got off. Besides the damage done to the ships actually in Port, there was considerable loss on the river below. The Burmah Mail and Passenger Steamer *Persia* foundered off the Sandheads with the loss of all on board

*(a)*. Including those which suffered so severely as to become constructively wrecks.

except two of the crew. The Hospital Ship *Bentinck*, which was at anchor near Diamond Harbour, was swept away by the wave and carried on to the top of the Diamond Harbour embankment. The troops on board and the crew were all brought safely up to Calcutta in the Steamer *Defiance*.

Of the Tug Steamers plying on the river, six* were lost. The Peninsular and Oriental Company lost the old *Hindoostan*, which had been converted into a lodging Hulk, and which after breaking from her moorings turned over and went down off Garden Reach. Their Mail Steamer *Bengal* was carried across and stranded on the opposite side of the river, where she still is, though it is hoped that she will be got off without serious damage.(a)

* *Phœnix.*
*Banshee.*
*Linnet.*
*Fire Queen.*
*Dwarkanath*, and
*Satellite.*

The Master Attendant's letter No. 2504 of 17th October contains a complete and detailed account of the loss which the gale caused to vessels the property of the Government, to the Dock-Yard, and to the moorings of the Port. Of the Government vessels, the Steamer *Adjai* and the Hospital Ship *Bentinck* are irremediably injured and condemned. The *Hope* and the *Krishna* Light Vessels are, it is feared lost with all hands. Two* reserve Vessels, two† Buoy Vessels, two‡ Pilot Vessels, and the§ Surveying Vessel were dismasted and more or less seriously injured. The Yachts of the Governor General|| and of the Lieutenant Governor¶ of Bengal escaped without very serious injury. Of the Harbour Master's Anchor and Heave-up Boats, &c., seven were lost, including the Hulk *Matabangah*, and fifteen were stranded. Of the moorings in Port, there were 210 sets lost and only 60 saved. The Kidderpore Dock-yard suffered mainly in the destruction of sheds and workshops, the machinery receiving but little damage.

Injury to Government vessels, &c.

* *Fame.*
*Kedgeree.*
† *Guide.*
*Grappler.*
‡ *Kedgeree.*
*Foam.*
§ *Salween.*
|| *Sonamookhey.*
¶ *Rhotas.*

A Report from the Superintending Engineer of the Presidency Circle shows the destruction wrought on the public works and buildings in this Circle by the Cyclone. With the exception of the injuries in the Midnapore district, this Report includes all the serious results which the storm caused to Government buildings, &c., in Bengal. Colonel Short estimates the damages at Rs. 2,00,000 for the outlying districts of the division; and for the public buildings in Fort William, Barrackpore, and Dum-Dum, he estimates the loss at Rs. 3,50,000. This estimate excludes in both cases the amount which will be required for the reconstruction of those buildings which have been so damaged as to be beyond repair. The loss in valuable trees mentioned in this Report cannot be estimated. The avenues in Fort William and the Botanical Gardens are destroyed; the Governor General's Park at Barrackpore has lost 50 per cent. of its valuable trees; and portions of the avenue along the road to Barrackpore have suffered to an extent even heavier than this.

Injury to Public Buildings.

Enclosures of Public Works Department's letter No. 3443, dated 12th November.

The loss both to Government and to Merchants caused by the quantity of salt destroyed in the gale was considerable. The following extract shows the amount actually lost in Calcutta, and its effect on the Salt Trade :—

Loss of salt caused by the storm.

"Of twenty-six ships on the river, which were discharging salt before the holidays, three have foundered with 16,402 maunds on board, seven have thrown away the whole, and eight, portions of their cargoes, the total amount of salt thus thrown away being 2,02,082 maunds, 24 seers, and 1½ chittacks, according to their several manifests.

"Of seventy-six Country Boats containing 25,308 maunds of salt delivered to Beoparies under Rowannahs from the several ships, and which had not been formally examined and passed at Sootanooty, 67 Boats with 22,169 maunds on board are said to have been wrecked; only nine Boats and 3,139 maands of salt have been saved. Petitions for refund of duty will be submitted in all likelihood with reference to the losses herein adverted to.

"Forty-seven Boats containing 19,376 maunds of salt, which had been passed at Sootanooty, but were staying in the Port from stress of weather or other causes, are said to have sunk also, the total salt saved from among these vessels being 994 maunds only. Two Golahs in Hautkhollah have been also swept clear of their contents during the rise in the river, the loss caused hereby being 427 maunds. The total loss of passed and unpassed salt lying in the river, as well as of Golah salt swept away, aggregates 40,978 maunds.

"The wholesale and retail prices of salt before the holidays were Rs. 4-6 and Rs. 5 respectively. The maximum price after the gale rose to Rs. 5-4 for wholesale and Rs. 5-10 for retail sales. The prices have now fallen to Rs. 4-12 and Rs. 5 respectively. The supply of salt for the town has never been short. The rise of price has been owing to the closing of the Offices, and partly to the large quantity of salt which has been lost here and elsewhere. A falling off in the sales has been the natural consequence."

Beyond this the loss to Government property was little in Calcutta itself, but in other places the damage done has been very severe. At the Narainpore Golahs it is estimated that out of 2,00,045 maunds in store on the 4th October, some 58,300 maunds, or about a quarter of the entire stock, was destroyed. In Hidgelee the Golahs have been much injured, but a detailed statement of the loss has not yet been procured.

In Sulkea the masonry Golahs and the salt which they contained received little or no injury: some of the temporary Golahs, however, were partially unroofed, and the rain getting in necessarily caused considerable damage.

At Goosery the Government Golahs stood well, but in some places their foundations have been seriously endangered, and expensive repairs will be necessary.

The loss caused by the gale to the various Emigration Agencies is detailed in the Report from the Protector of Emigrants, No. 333, dated 22nd October 1864.

Loss of life and property at the Emigration Depôts.

In the Mauritius Depôt all the bungalows, sheds, and hospital accommodation provided for the use of the Emigrants were completely destroyed.

The Depôt for British Guiana was completely destroyed. The Emigrants, 600 in number, had been fortunately moved in time by the Agent to an adjoining house which was vacant. One old woman was drowned, though the Agent, at the imminent peril of his own life, made great exertions to save her.

(a). The *Bengal* was got off on 30th December after great difficulty and at a large expense.

The sheds in the Trinidad Depôt were destroyed, but the masonry house stood firm. The Emigrants, 500 in number, were removed in time from the sheds to the Agent's own house.

In the Bourbon Depôt a large shed was blown down, and of the sixty people inside, one was found to be killed, and about twenty injured. Later in the day, two sheds and the masonry hospital were blown down. In the ruins of this latter building one man and one woman were buried. The Agents all exerted themselves and made the best available provision for the safety and accommodation of their coolies.

Measures of Relief.

The Local Officers took measuses at once, so far as lay in their power, to alleviate the distress caused by the gale. As soon as reliable information was obtained by the Magistrate of the 24-Pergunnahs of the state of the southern portion of his district, he lost no time in sending out food for the starving population and in providing for the burial of the dead and the removal of the carcasses of animals and other substances likely to cause injury to the public health. He at once obtained an advance of Rs. 5,000 from Government and caused supplies of rice to be hurried down to Diamond Harbour, Futtehpore, Atcheepore, and Dabeepore; and, irrespective of the proceedings of the Relief Committee, 11,864 persons are reported to have been relieved by these means in his district. Steps were at the same time taken for the clearance of tanks and drains, and for the baling out of tanks filled with salt water; and, on these measures being reported to Government, the Lieutenant Governor directed that they should be persevered in until the entire portion of the country visited by the hurricane was cleared and the people were enabled to provide means of subsistence for themselves. Orders were also given for the arrangement of a systematic plan for the regular supply of food and water to the distressed villages, and it was suggested that, if the deficiency of good water should be found likely to be permanent, a scheme should be organized, if possible, for digging good fresh-water tanks, with a view to relieve the want of water and to give employment to the people. His Honor also authorized the employment of such extra Police as might be required for the maintenance of order, and for the protection of property, and for properly carrying out the measures of relief.

Similar steps were also adopted by the Local Officers of Midnapore and Howrah for the relief of the distress in their respective districts, and the Lieutenant Governor further directed that measures should be taken for immediately employing the whole of the population, which might be in want of work and food, in repairing the embankments in the 24-Pergunnahs, Hidgelee, and Midnapore on ordinary wages, but without adhering at the commencement to the strict exaction of work to be done for the day's wages, and he directed that all people asking for work should be employed in this manner, without excepting women and children.

In the Marine Department also active measures were taken from the very day of the storm to save life and property and to mitigate the effects of the disaster. On the evening of the 5th October, as soon as the abatement of the gale rendered communication possible, the *Celerity* and *Koladyne* were held in readiness, and started on the following morning, one to render aid to distressed vessels, and the other in search of the *Sir William Peel* with her Flats, having on board the 12th Native Infantry proceeding to Bootan. On the 7th the people of Moyapore were supplied with money to purchase rice, and the *Celerity* returned to town, having expended all her provisions in the relief of urgent distress on the banks of the river. On the 8th the *Lady Elgin* was despatched to assist in cruizing about the Sandheads and the Balasore Roads in search of Pilot and Light Vessels, wrecked Ships, and vessels in distress. On the 9th the *Celerity* was sent again with provisions and water to the Sandheads and False Point, and, having returned on the 14th, was despatched once more on the 18th with provisions and water to make a more extended search for distressed people and vessels. On the 9th two Row Boats were also sent to Kedgeree with provisions and water. The *Salween*, which was stranded there, had fed a number of people daily from her stores, but by that time her provisions were exhausted. During the following week five Government Boats belonging to the Harbour Master's Department were despatched with provisions down the river. The S. V. *Koladyne* was also despatched on the same day with provisions and water to the Sunderbuns, to visit the houses of refuge and to search for people and wrecks; the *Swiftsure* was also despatched to visit all the River Stations and to relieve immediate want wherever it was met with. The Stations visited and relieved in this manner were Atcheepore, Moyapore, Hooghly Point, Diamond Harbour, Chitamara, Mud Point, Kedgeree, and Cowcolly, and the Master Attendant was authorized to incur any expenditure that might be necessary for continuing these expeditions, for saving life and for rendering assistance to vessels in difficulty. The Lieutenant Governor also directed that the whole of the sea-coast should be examined, and, as far as possible, also all the creeks in the Sunderbuns.

The relief, however, which could be given by the Officers of Government was necessarily inadequate to meet the wants of such a population as that which was suffering from the total loss of their property, and from the impossibility of procuring either food or water. This insufficiency was promptly and effectually met by the organised efforts of the community. A public meeting was held a few days after the disaster, and a large subscription guaranteed at the time. This movement, which was originated by Mr. Walter Brett, was most nobly supplemented by the prompt and spontaneous liberality of the Parsee community at Bombay, and the subscriptions to the Fund now amount to nearly three lakhs of Rupees.

On the 14th October the Committee of the Relief Fund took up the River Steamer *Bombay*, which left at once with supplies of rice and fresh water, and after having visited the tract on both sides of the river which had been swept by the storm, left depôts of stores where they were most needed, and returned to Calcutta on the 18th. Another Government Steamer, the *Festa*, was immediately after placed at the disposal of the Committee and sent down on the 23rd October with fresh supplies; and the Lieutenant Governor took this opportunity to appoint Mr. L. T. McNeile to officiate as a Joint Magistrate and Deputy Collector in the 24-Pergunnahs and Midnapore, to proceed in charge of the supplies, and to remain in the distressed districts with a view to direct the operations of relief. The Magistrates of those districts were also directed to co-operate with the Relief Committee and make the

| | | |
|---|---|---|
| Rice ... ... ... | 1,080 | Maunds. |
| Dhall ... ... ... | 227 | " |
| Parched rice ... ... | 30 | " |
| Salt ... ... ... | 30 | " |
| Chillies ... ... ... | 15 | " |
| Tobacoo ... ... ... | 8 | " |
| Blankets ... ... ... | 750 | Pieces. |
| Cotton cloth .. .. | 2,000 | Yards. |
| Cooking pots ... ... | 300 | In number. |
| Hookas ... ... ... | 100 | " |

and Kookrahatee. A few days after, the Steam Tug

| | | |
|---|---|---|
| Rice ... ... ... | 2,250 | Maunds. |
| Dhall ... ... .. | 313 | " |
| Salt ... ... ... | 20 | " |
| Blankets ... ... ... | 250 | Pieces. |
| Cotton cloth ... ... | 2,000 | Yards. |
| Cooking pots ... ... | 150 | In number. |
| Clyomies ... ... ... | 140 | " |

Public Establishments available for applying in the most efficient manner the money which had been subscribed by the public. The proceedings of Mr. McNeile are reported in detail in the Nuddea Commissioner's letter No. 253, dated the 18th ultimo. He started on the *Teesta* on the 23rd October with the stores noted on the margin and distributed them in Moyapore, Nuldaree, Fulta, Nonpore, Diamond Harbour, Kulpee, Rangafullah, Dhaja, Fort Mornington, Paroolparah, *Francis Gordon* was sent down with the provisions noted on the margin, and from this supply a boat full of provisions and water-casks was made over by Mr. McNeile to Mr. Hugh Fraser, who had from the commencement taken an active part in forwarding these measures of relief for Saugor Island; and stores were also deposited at Kedgeree, Balhaghatta, Diamond Point, and Dowlutpore. The *Teesta* left again on the 8th November with fresh stores; but the country on the east side of the river has been gradually reviving, and hauts are being held and the people are resuming their occupations; the distribution of food gratis to able-bodied men has in consequence been here discontinued; but the quantity served out at once to women and children has been doubled, so that they may take away enough for two meals at once. To this rule, however, the Island of Saugor is still an exception, and the people there must yet continue to be fed by charity for some time to come. On the western side of the river also the supplies of food free of cost are being continued, because no work of any kind has there been procurable for those in distress. It is, however, most satisfactory to find that the want of fresh water, which was at first supposed likely to continue for a long time, and to be the cause of great distress, has ceased to a great extent to be felt, the tanks, even where flooded with salt water, having recovered their freshness by natural process, and the decaying vegetation and other impurities, which at first made their water almost poisonous, having to some extent been removed, though doubtless the impure state of the water has had a most injurious effect on the health of the people.

A Statement of the manner in which the Relief Fund has been expended up to the present time is given in the margin.

| | Rs. | A. | P. |
|---|---|---|---|
| Stores ... ... ... | 1,16,146 | 9 | 6 |
| Advances for distribution among Natives by Missionaries ... ... .. | 36,700 | 4 | 0 |
| Advances for distribution among Natives by Magistrate of Alipore ... ... | 7,901 | 5 | 8 |
| Advances for distribution among Natives by District Charitable Society ... ... | 1,000 | 0 | 0 |
| Advances for distribution among Natives by Mr. McNeile ... ... ... | 1,000 | 0 | 0 |
| Advances for distribution among Natives by Mr. Hugh Fraser .. ... | 9,000 | 0 | 0 |
| Advances for distribution among Natives by Baboo Chunder Sikur Mookerjee, of Conaghur .. ... .. | 1,000 | 0 | 0 |
| Advances for distribution among Natives by Officers at Tumlook ... ... | 200 | 0 | 0 |
| Advances for distribution among Natives by Officers at Midnapore ... ... | 4,000 | 0 | 0 |
| Advances for distribution among Natives by Officers at Kishnaghur ... ... | 4,347 | 0 | 0 |
| Advances for distribution among Natives by Officers at Serampore ... ... | 1,000 | 0 | 0 |
| Advances for distribution among Natives by Officers at Contai ... .. | 1,000 | 0 | 0 |
| | 1,83,295 | 3 | 2 |
| Donations chiefly to widows and orphans of European Officers of Steamers and others in absolute need ... ... | 5,340 | 0 | 0 |
| Sailors' Home Relief Fund ... ... | 25,000 | 0 | 0 |
| | 2,13,635 | 3 | 2 |

DETAIL OF STORES,

| | | | *Cost in Calcutta.* Rs. | A. | P. |
|---|---|---|---|---|---|
| Rice ... | 15,700 | Maunds ... | 39,296 | 5 | 6 |
| Dhall ... | 2,500 | " ... | 6,963 | 12 | 6 |
| Oil ... | 492 | " ... | 6,303 | 0 | 6 |
| Salt ... | 234 | " ... | 1,095 | 3 | 6 |
| | | | 53,658 | 6 | 0 |
| Cloth ... | 1,28,000 | Yards ... | [illegible] | 0 | 0 |
| Blankets ... | 1,750 | Pieces ... | [illegible] | 3 | 6 |
| Coir Yarn ... / Jute Twine .. | 988 | Maunds ... | 7,225 | 9 | 6 |
| Khodallies ... | 6,200 | In number ... | 3,640 | 2 | 3 |
| Khuttarees ... | 6,400 | " ... | 3,655 | 8 | 6 |
| | | | 1,03,769 | 13 | 9 |
| Steamer hire ... .. ... | | | 6,000 | 0 | 0 |
| Boat, Cart, and Coolie hire ... ... | | | 6,376 | 11 | 9 |
| Total Cost of Stores, Rs.... | | | 1,16,146 | 9 | 6 |

The crews of the vessels destroyed by the Cyclone and of those which became unseaworthy, having been thrown on the charity of the town, a Committee of the Sailors' Home was convened at the request of the Commissioner of Police in order to devise means for affording relief to these Seamen. From the first they were housed and well-cared for in the Sailors' Home, and fifty of them were taken on as additional Constables after the storm, and did good service in collecting and protecting wrecked property on the Strand. The great demand for labor on board the damaged Ships enabled many others also to find employment on their own terms; but when this demand began to lessen, the Sailors' Home Committee recommended that the provisions of the Merchant Seamen's Act, whereby distressed and shipwrecked Seamen may be relieved and sent home at the public expense, should be put into operation. The Commissioner of Police was thereupon directed to place himself in communication with the Master Attendant, with a view of despatching home such distressed Seamen as came within the provisions of Section 211 of the Act, and also to report, for the Lieutenant Governor's information, further particulars regarding certain others whom he had suggested to send home at the joint expense of the Sailors' Home and of Government, a measure which did not however appear to be necessary, seeing that if the men are really in distress, they can be provided for under the Merchant Shipping Act. Occupation was also found in Her Majesty's service for a number of these men (thirty) under the Rear Admiral at Bombay, and the Lieutenant Governor authorized the payment of Rs. 50 for the passage of each of these men, to be recovered from the Board of Trade.

To guard against a return of the disasters which occurred to the Shipping during the storm, the questions submitted for the consideration of Government have been (1) the construction of Wet Docks for the accommodation of the Shipping; (2) the completion of the requirements at Port Canning with a view to direct a portion of the Shipping to Mutlah; (3) the best mode of relaying the moorings so as to render them more

secure than they were before the gale. The two first of these proposals are under the consideration of the Government of India. As, however, the third proposal was of immediate importance, a Committee was appointed by the Lieutenant Governor, consisting of the gentlemen named on the margin, to consider and report on the subject, and, in compliance with their recommendation, an urgent Indent has been sent home already for screw moorings for the Port in the place of the ordinary moorings hitherto in use. At the recommendation of the Master Attendant, the Lieutenant Governor has also authorized a rule being added to the Port Rules, that from the 30th September until after the full moon of November, no Ship in the Port shall be allowed to have top-gallant yards or top-gallant masts aloft, and that they shall in addition strike top-sail yard and top-masts when required to do so.

The Hon'ble J. N. Bullock,
Captain A. Fraser, R.N.
" H. Hyde, R.N.
" H. Howe.
Mr. G. Ross.

FORT WILLIAM,
*The 31st December 1864.*

A. EDEN,
*Secy. to the Govt. of Bengal.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 3.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, JANUARY 21, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 7th January 1865, and is hereby promulgated for general information:—

ACT No. I OF 1865.

*An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.*

Preamble.

WHEREAS it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab to extend to Non-Regulation Provinces under the immediate administration of the Government of India, or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:—

Governor-General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

**1.** From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

**2.** From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories respectively the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

**3.** Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of inconsistent Rules.

**4.** From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

**5.** This Act shall be called "The Acts and Regulations' Extension Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th January 1865, and was referred to a Select Committee.

No. 23 OF 1864.

*A Bill to legalize under certain circumstances the remarriage of Native Converts to Christianity.*

Preamble.

Whereas it is expedient to legalize under certain circumstances the remarriage of Native Converts to Christianity, deserted or repudiated, on religious grounds, by their wives or husbands; and to relieve minis-

ters of religion from the penalties to which they are now liable for solemnizing such remarriages; It is enacted as follows:—

Short title.

**1.** This Act may be cited as "The Remarriage of Converts' Act, 1865."

Commencement of Act.

**2.** This Act shall commence and take effect on and from the first day of December 1865.

**3.** In this Act—

Interpretation of terms.

"Native Husband." "Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall neither be a Christian nor a Jew.

"Native Wife." "Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall neither be a Christian nor a Jewess.

"Native Law." "Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians and Jews.

"Month" and "year." "Month" and "year" shall respectively mean month and year according to the British calendar.

"Number." And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Convert deserted by his wife on religious grounds may sue for conjugal society.

**4.** If a Native Husband change his religion for Christianity and if solely in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

**5.** If a Native Wife change her religion for Christianity and if solely in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Court in which suit shall be brought.

**6.** If the respondent, at the time of the commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

**7.** The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition shall bear a stamp of ten rupees, and may be amended by permission of the Court.

On petition, citation issued to respondent to appear and answer.

**8.** A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge, enjoining the respondent to appear in Court on a day to be named in such citation, not less than one month after the service of a copy thereof on the respondent, and answer whether she or he refuses to cohabit with the petitioner.

Form of citation.

**9.** The citation shall be in the form in the second schedule to this Act or as near thereto as the circumstances of the case will allow.

Service of citation.

**10.** A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Procedure where respondent does not appear.

**11.** If the respondent shall not appear personally in obedience to such citation, and on every other occasion on which the respondent's appearance shall be required under the provisions of this Act, she or he shall be liable to punishment under the hundred and seventy-fourth Section of the Indian Penal Code, and the Court may authorize the Magistrate of the District to proceed under such Section against the respondent.

Points to be proved on appearance of parties.

**12.** On the day fixed in the citation the parties shall appear in Court, and the following points shall be proved:—

(1.) The identity of the parties:

(2.) The marriage between the petitioner and the respondent:

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:

(4.) The desertion or repudiation of the petitioner by the respondent:

(5.) That such desertion or repudiation was solely in consequence of the petitioner's change of religion;

(6.) And that such desertion or repudiation had continued for the six months next before the commencement of the suit.

First interrogation of respondent.

**13.** The Judge, if such points be proved to his satisfaction, shall thereupon ask the respondent whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal.

Interrogations may be public or private.

**14.** Such interrogation and every other interrogation mentioned in this Act may, at the discretion of the Judge, take place in open Court or in his priv[illegible] room. If any such interrogation [illegible] open Court, the Judge may, so lo[illegible] as [illegible] continue, exclude from the Court all [illegible]ch [illegible]s as he shall think fit to exclude.

**15.** If the respondent, in answer to the Judge's interrogatories, shall refuse to cohabit with the petitioner, and allege, as the sole ground for such refusal, that the petitioner has changed his or her religion, the Judge shall make an order adjourning the case for one month, and directing that in the interim the parties shall, at such place and time as he shall deem convenient, have a private interview of not less than one hour in length, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal. Such interview shall be subject to any conditions as to privacy which the Judge shall think fit: Provided that no condition which might interfere with the ascertainment of the respondent's wishes respecting such refusal shall be imposed upon such interview.

Adjournment for a month if respondent refuses to cohabit on account of petitioner's conversion.

Parties in the interim to have a private interview.

**16.** At the expiration of such adjournment, the parties shall again appear in Court, and if the respondent, on being interrogated by the Judge, again refuse to cohabit with the petitioner, and allege, as the sole ground for such refusal, the petitioner's change of religion, the suit shall be adjourned for one year.

Second interrogation of respondent.

Adjournment for a year.

**17.** At the expiration of such adjournment the parties shall again appear in Court, and the petitioner shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to.

Point to be proved on expiration of adjournment.

**18.** In any such suit, proof of cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was solely in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of the marriage, and the desertion or repudiation of petitioner in consequence of conversion.

**19.** The provisions of the Code of Civil Procedure, as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

**20.** If the points mentioned in the twelfth and seventeenth Sections of this Act shall be proved to the satisfaction of the Judge, he shall adjourn the suit for one month, and direct that in the interim the parties shall have another interview of such length and subject to such conditions as he shall think fit.

On proof of the requisite points, suit to be adjourned for a month and parties to have another interview.

**21.** At the expiration of such adjournment the parties shall again appear in Court; [illegible] the respondent on being interrogated by the Judge a[illegible] refuse to cohabit with the [illegible] terms, and allege the pe[illegible] conversion as the sole ground for such refusal, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that it shall be lawful for the petitioner to marry again: Provided that it shall not be lawful for the petitioner so to marry any person standing in such a degree of relationship to the respondent as that, if [illegible] one of them had been a male, such person and the respondent could not have intermarried.

At expiration of adjournment, if respondent refuse to cohabit, decree to pass permitting petitioner's remarriage.

**22.** If there shall be children of the petitioner and respondent, within the age of three years, in the sole custody or control of their father, or of any person by his authority, it shall be lawful for the Judge, on the application of their mother, to direct in the decree or by a subsequent order that such children shall be delivered to, and remain in, her custody until attaining such age, subject to such regulations as the Judge shall deem convenient and just.

The parties' children under the age of three years may be delivered to their mother on her application.

**23.** If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit, and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

**24.** If at any time after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall recommence at the stage at which it had arrived immediately before the passing of such decree; and after the proofs, interrogations, interviews, and adjournments which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature and subject to the proviso mentioned in the twenty-first Section of this Act.

Revival of suit after such dismissal.

**25.** If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Petitioner's cruelty or adultery to bar the suit.

**26.** If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dis-

Male petitioner's cohabitation with one of several wives to bar the suit.

missing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

Male petitioner's remarriage not to affect status or rights of his Native wife or children.

**27.** If the petitioner, being a male, shall marry again under the provisions of this Act, such remarriage shall not operate to deprive the respondent or her children (if any) by him, of the status which they would have had as his lawful wife or legitimate children, or (subject to the provisions hereinafter contained) of any right or interest which she or they would then have had, according to the Native law applicable to her or them, by way of maintenance, dower, inheritance, or otherwise, in case the petitioner had not so married again as aforesaid.

Rights of Native wife in case she and remarried Convert's wife survive him.

**28.** If any such petitioner predecease the respondent and the woman whom he shall have so married, the respondent (subject to the provisions hereinafter contained) shall succeed, according to the Native law applicable to her, to such interest (if any) in the whole or part of the petitioner's property as she would have been entitled to had she been his senior widow or one of his widows as the case may be.

Intercourse between remarried petitioner and the respondent during remarriage to be deemed adulterous.

**29.** If during any such remarriage, intercourse take place between the petitioner and the respondent, such intercourse shall be deemed adulterous, and the children (if any) born in consequence thereof shall be illegitimate.

After decree permitting petitioner's remarriage, respondent may remarry.

**30.** After the passing of a decree permitting any such remarriage and the dismissal of the appeal (if any) against such decree, it shall be lawful for the respondent also to remarry, and the issue of such remarriage shall be legitimate, any Native law to the contrary notwithstanding. But upon the respondent's remarriage, all rights and interests which she or he may then have in the petitioner's property by way of maintenance, inheritance, or otherwise, shall cease and determine as if the respondent had then died; and the petitioner, or, if the petitioner be dead, the persons entitled to such property on the respondent's death, shall thereupon succeed to the same.

On such remarriage respondent's claim on the petitioner's property to cease.

Minister of religion not bound to celebrate remarriage legalized by this Act.

**31.** The celebration of any remarriage legalized by this Act shall not be obligatory on any minister of religion.

Power to Court to award alimony.

**32.** If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

Appeal against orders and decrees under this Act.

**33.** An appeal shall lie against any order or decree made or passed by any Court under the provisions of this Act to any Court to which an appeal would lie against an order or decree made or passed by the former Court in any Civil case. Every such appeal shall be subject to the rules relating to Regular Appeals contained in the Code of Civil Procedure, so far as such rules are applicable to the case.

Extent of Act.

**34.** This Act shall extend to all the territories that are or shall become vested in her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

*Form of Petition.*

Stamp
Rs. ten

To the Judge of the Civil Court of .

The day of 18 .

The petition of A. B. of

Sheweth :—

1. That your petitioner was born on or about the day of 18 .

2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at .

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 ; and that there are now living children, and no more, of such marriage, aged respectively and years.

5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of .

6. That on the day of 18 [*at least six months prior to the date of the petition*], the said C. D. deserted your petitioner, and has not since resumed cohabitation with him.

7. That such desertion was solely in consequence of your petitioner's said change of religion.

8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with your petitioner, or declare that it shall be lawful for your petitioner to marry again.

A. B.

*Form of Verification.*

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

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THE SECOND SCHEDULE.

*Form of citation.*

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you, the said C. D., has filed his petition against you in the Civil Court of praying that you may be ordered to live and cohabit with him, or that it may be declared that it shall be lawful for him to marry again, and alleging that you the said C. D. have deserted him for six months solely in consequence of his having changed his religion for Christianity: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing you will be liable to punishment under the hundred and seventy-fourth section of the Indian Penal Code.

Dated the day of , 18

(Signed) E. F.

Judge of the Civil Court of

*Endorsement to be made after service.*

This citation was duly served by G. H. on the within-named C. D. of at on the day of , 18 .

(Signed) G. H.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to legalize under certain circumstances the remarriage of Native Converts to Christianity, whose wives or husbands have deserted or repudiated them exclusively on religious grounds. The question has been before the Government of India for a very long time, but the settlement of it has been delayed, chiefly on account of the great difference of opinion which has proved to exist between the religious bodies and persons most strongly interested in the matter as to the circumstances under which the remarriage of a Convert, before the death of the first wife or husband, may be considered permissible.

The present Bill attempts to solve the difficulty by an interposition of the secular power, leaving missionaries and ministers of religion to act on their own views of duty in remarrying their Converts. The secular character of the measure is marked by the recital in the Preamble that it is no longer expedient to impose any liability on ministers of religion solemnizing such marriage, and by the provision that no minister of religion shall be compellable to avail himself of the Act to not[illegible] mitted by the Bill.

The persons entitled to relief under the Bill are defined as "Native Husbands," and "Native Wives." A "Native Husband" is a married man domiciled in India, being neither a Christian nor a Jew, who shall have completed the age of sixteen years. A "Native Wife" is correspondingly defined, except that the limit of age is thirteen years. It may be convenient, in describing the nature of the measure, to confine the statement to the case of a Native Husband.

The ground of relief is, in conformity with the draft Bill prepared by Sir Barnes Peacock, the "desertion or repudiation" of the Native husband by the Native wife, when such desertion or repudiation has taken place solely in consequence of the husband's having changed his religion for Christianity. The Bill further follows Sir Barnes Peacock's draft in providing (Section 18) that the wife's refusal or voluntary neglect to cohabit with her husband after his change of religion shall be sufficient evidence of the desertion or repudiation, and also, unless some other cause be shown, that the desertion or repudiation was in consequence of the husband's change of religion.

The mode of relief is by suit for conjugal society. In the course of the suit, many separate interrogatories will be addressed to the Native wife by the Judge for the purpose of conclusively ascertaining her refusal to join her husband, and various private interviews are provided for as means of conciliation. It is only after all these efforts to overcome the wife's distaste have failed, that the Judge may make a decree permitting the husband to remarry.

The desertion or repudiation must have continued for six months before the commencement of the suit. On the day fixed in the citation for the hearing, the respondent must appear personally, and the petitioner must prove the identity of the parties, the marriage, the age of himself and of his wife, the desertion or repudiation, its cause, and the fact that it occurred six months before the commencement of the suit and has continued ever since. These points being ascertained, the Judge (who will be a High Court Judge in the Presidency Towns, and a Zillah Judge in the Mofussil) will interrogate the respondent, but not necessarily in open Court. If the respondent allege the petitioner's change of religion for Christianity as the sole reason for her declining to cohabit with him, the case will be adjourned for a month, and provisions will be made for a private interview between the husband and wife, subject only to such conditions as to privacy as may not interfere with the free will of the latter.

At the end of the month the parties will reappear, and the wife will be further interrogated. If she still persist in her refusal, there will be a further adjournment for a year, and at the close of the year, the petitioner will be bound to prove that the desertion or repudiation has continued down to that time. The respondent will then be further interrogated, and arrangements will be made for a second interview. Should this still result in the wife's refusal to join her husband, the Judge will at length make the decree before-mentioned legalizing a remarriage.

The whole time necessarily occupied by these proceedings will be twenty months. Taking into account the preparations for the suit and the time required for the hearings, the entire interval between repudiation and remarriage will probably be about two years. These periods of time are,

however, only inserted in the Bill *pro formâ*, and can be altered in Committee. The further provisions of the Bill which call for special notice are the following :—

Cruelty or adultery proved against the petitioner will bar the suit.

The children of the first marriage retain their personal and proprietary rights, and, if under the age of three years, may remain in their mother's custody until attaining that age. The wife retains the status which she would have had as lawful wife, and forfeits no right to maintenance, dower, or inheritance.

The respondent (the Native wife) is allowed to remarry after the decree permitting the petitioner's remarriage (Section 30) ; but if she remarries, she forfeits all rights or interests she may have in the petitioner's property.

If the wife has not sufficient property to maintain herself, the Judge may award alimony to her ; and may also order the husband to provide her with funds to prosecute or defend the suit, if she be in need of them.

A Convert married to several Native wives will have to make them all respondents in the suit.

The provisions of the Bill with reference to Native wives deserted or repudiated by their husbands on religious grounds are the converse of those just recited, with the exception of the last.

The remaining provisions are of a technical character.

HENRY S. MAINE.

*The 29th December* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department (Legislative).*

## HOME DEPARTMENT.

No. 530.

*Fort William, the 17th January* 1865.

NOTIFICATIONS.

The Reverend Henry Woodward Crofton, Junior Chaplain on the Bengal Establishment, who reported his return to India by the Steamer "Simla" on the 11th instant, has been appointed Chaplain of Rangoon.

No. 531.

The Reverend J. Clough has been transferred from Rangoon to Tonghoo.

No. 569.

*The 18th January* 1865.

Asistant Surgeon B Reed, H. M.'s 12th Regiment, is appointed to the Medical charge of the Civil Station of Roy Bareilly, in addition to his Regimental duties, from the 15th of December 1864, vice Assistant Surgeon D. C. McFall, who has left the station with his Regiment.

No. 571.

Dr. H. M. Cannon, Inspector of Prisons in Oudh, received medical charge of the Civil Station of Lucknow from Dr. F. Douglas, M. D., on the forenoon of the 2nd instant.

No. 572.

*The 19th January* 1865.

Under Section 12 of Act II of 1857, the Governor General in Council is pleased to authorize the affiliation of the Cathedral Mission College to the Calcutta University, with effect from the 1st instant.

No. 573.

Lieutenant A. F. Danvers, District Superintendent of Police, Hurdui, Oudh, returned to his duties on the forenoon of the 28th of November 1864 from leave to Europe.

No. 574.

The Governor General in Council is pleased to appoint the under-mentioned gentlemen to be Fellows of the University of Calcutta :—

Henry Alexander Bruce, Esq., M. D.
James Anderson, Esq., M. D.
James Peter Brougham, Esq., M. D.
N. C. Macnamara, Esq.

No. 575.

*The 19th January* 1865.

Mr. W. McGregor, Assistant Superintendent, Telegraph Department, Dacca Circle, availed himself of the privilege leave granted to him under orders No. 676 A, dated 11th June 1864, on the 16th of July, and returned to duty on the 15th of September.

No. 576.

*The 20th January* 1865.

The Governor General in Council is pleased to permit Sir Bobert Montgomery, K. C. B., to resign the Civil Service from the 10 instant.

R. N. CUST,
*Offg. Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

JUDICIAL.

No. 26.

*Fort William, the 20th January* 1865.

Captain H. C. Menzies, Assistant Commissioner, 2nd Class, in the Hyderabad Assigned Districts, is invested with the powers of a Magistrate under Section 22 of Act XXV of 1861.

GENERAL.

No. 104.

*[illegible]h January* 1865.

Cap[illegible]ire, Assistant Commissioner of Seeta[illegible]udh, obtained privilege leave of abse[illegible]ne 28th November to the 23rd Decem[illegible]

No. 105.

Mr. H. Dennys is appointed to officiate as an Extra Assistant Commissioner, 4th Class, in the Central Provinces, during the absence on leave of Pundit Rae Kishen Narain.

No. 110.

His Excellency the Viceroy and Governor General in Council is pleased to direct that the several districts in the Hyderabad Assigned Territory shall, in future, be designated as follows:—

| | |
|---|---|
| Akola District. | Mehkur District. |
| Oomraotee District. | Woon District. |

No. 113.

The resignation, by Captain J. C. Horne, Bengal Staff Corps, of his appointment as Assistant Commissioner in the Punjab, is accepted by the Governor General in Council.

No. 116.

Lieutenant A. Farrer, Assistant Commissioner, 3rd Class, in the Hyderabad Assigned Districts, is appointed to be also Assistant Conservator of Forests, vice Lieutenant R. Bullock.

No. 118.

The services of Mr. T. Monck Mason, Assistant Commissioner in Oudh, are, at his own request, replaced at the disposal of the Bombay Government from the date on which he may be relieved of his duties.

No. 140.

*The 19th January* 1865.

The resignation by Captain R. Jenkins of his appointment as Assistant to the Governor General's Agent for Central India for Boundary Settlements, notified in G. O. No. 1277, dated 21st September last, is to have effect from the 22nd of May last.

No. 142.

The Governor General in Council is pleased to accept the resignation by Dr. J. C. Campbell of his appointment of Durbar Surgeon at Mysore, and to replace his services at the disposal of the Madras Government.

Dr. A. A. Renton, of the Madras Medical Establishment, is appointed to officiate as Durbar Surgeon at Mysore till further orders.

No. 145.

Lieutenant Colonel S. R. Tickell, late Commissioner of Pegu, has been allowed leave of absence for twenty-three days preparatory to retiring from the service.

No. 147.

Captain T. Wakefield, Assi[illegible]nt Commissioner in the Central Provinces, [illegible] obtained leave of absence for 39 days, from the [illegible]rate on which he may avail himself of it, [illegible]proceed to Calcutta preparatory to applying [illegible]ther leave to Europe, on medical certificate[illegible]

No. 14[illegible]

With reference to G. O. [illegible] dated 6th October last, Captain D. [illegible] Assistant to the Governor General's [illegible] for the States of Rajpootana [illegible]quitted the Head Quarters of the Rajpootana [illegible]gency on the afternoon of the 28th December [illegible]t.

No. 155.

*The 20th January* 1865.

The Governor Gener[illegible]n Council is pleased to sanction the following promotions in the Oudh Commission:—

Lieutenant R. H. de Montmorency, Assistant Commissioner, from the 2nd to the 1st grade, from the 23rd December, vice Captain Shaw, who assumed charge of the Office of Cantonment Magistrate of Lucknow on the 22nd December.

Lieutenant W. Phaire, Assistant Commissioner, from the 3rd to the 2nd grade, from the same date, vice Lieutenant R. H. de Montmorency.

Moonshee Nund Kishore, Extra Assistant Commissioner, from the 3rd to the 2nd grade, from the 25th December, vice Moonshee Ramdial, retired on pension from the 24th December.

No. 158.

The services of Mr. W. H. Smith, Officiating Assistant Commissioner in Oudh, are replaced at the disposal of the Government of the North-Western Provinces from the date on which he may be relieved of his duties.

C. U. Aitchison,
*Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 292.

*Fort William, the 16th January* 1865.

Notifications.

Baboo Khetter Mohun Chatterjee, 4th Assistant Auditor General of India, is allowed one month's privilege leave, in extension of the two months' privilege leave granted to him under Notification No. 3246, dated 15th November 1864.

No. 415.

*The 20th January* 1865.

In continuation of Notification No. 4244, dated the 30th ultimo, the following Statement of Cash Balances, as reported up to this date, in the Government Treasuries in India, at the close of the month of November last, contrasted with that of the previous years, is published for general information:—

| According to the present limits of the several Governments. | 1862. November. | 1863. November. | 1864. November. |
|---|---|---|---|
| | Rs. | Rs. | Rs. |
| Government of India.. | 5,87,54,442 | 3,24,08,602 | 1,50,29,790 |
| Bengal .. | 1,75,31,717 | 1,96,82,073 | 1,54,17,024 |
| N. W. Provinces ... | 3,13,54,646 | 2,76,35,760 | 2,17,90,508 |
| Punjab .. | 92,29,287 | 92,98,438 | 1,12,89,957 |
| Bombay .. | 2,52,23,557 | 1,41,10,900 | 1,57,86,865 |
| Central Provinces .. | 45,15,845 | 38,57,104 | 44,45,655 |
| Deccan ... | 10,15,912 | 18,24,012 | 14,23,443 |
| Madras ... | 2,08,64,396 | 2,62,64,966 | 1,77,02,015 |
| Total .. | 16,84,89,802 | 13,50,81,855 | 10,28,85,257 |

E. H. Lushington,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 16th January* 1865.

*No.* 61 *of* 1865.—The under-mentioned Officers having completed 26 years' service, eight years of which were on permanent Staff employ, to be Lieutenant Colonels from the dates specified opposite to their respective names under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Major H. C. Adlam ... | 13th January 1865. |
| Major W. Agnew ... | 14th ditto |

---

*No.* 62 *of* 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent Staff employ, to be Major from the date specified opposite to his name under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Captain (Brevet Major) J. F. Stafford ... | 12th January 1865. |

---

*No.* 63 *of* 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an out-pensioner of Chelsea Hospital, according to the 23rd clause of the Royal Warrant of the 1st July 1848, pending a reference to the Home Authorities as to the amount of his pension :—

Private William Carroll, of Her Majesty's 19th Hussars.

---

*No.* 64 *of* 1865.—The following notification, No. 7, dated 9th instant, issued by the Public Works Department, is re-published in General Orders :—

ESTABLISHMENT.

No. 7.

*Fort William, the 9th January* 1865.

NOTIFICATIONS.

Paras. 62 to 66 inclusive of Section LVIII of the Military Regulations, relating to tests for Civil Engineering and Surveying, having been expunged* under the orders of the Government of India in the Military Department, it is hereby notified that the only tests in force for the admission of Military Officers into the Engineer Establishment of the Public Works Department are those laid down in Chapter II, paras. 34 to 36 of the Public Works Code. Henceforth the names of all Military Officers who have passed those tests will be notified by the Government of India in the Public Works Department; those who pass the ordinary test will be distinguished in the Army List by the letters C. E. against their names, and those who attain the higher standard at the Thomason College, by the letters T. C.

* Military Department No. 518 of 17th November 1864.

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*No.* 65 *of* 1865.—The undermentioned out-pensioner of the Royal Hospital at Chelsea having been permitted to reside and draw his stipend in India, payment of pension is to be made and charged accordingly :—

| | *Rate of pension per diem.* |
|---|---|
| Bombardier James Black, late of the 22nd Brigade, Royal Artillery ... | 1*s.* 0½*d.* one shilling and half penny, from the date on which he ceases to receive Regimental pay. |

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*No.* 66 *of* 1865.—The services of Captain W. Bannerman, of the late 3rd Bombay Native Infantry, are placed at the disposal of the Foreign Department.

---

*The* 17*th January* 1865.

*No.* 67 *of* 1865.—Conductor Charles Owens, promoted by Government General Order No. 1059 of the 26th October 1860, and attached to the Army Commissariat Department as Supernumerary, will take rank according to the date of his warrant as Conductor in the Department, viz., 26th October 1860, and will stand next above Conductor W. F. Hardinge.

---

*No.* 68 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Lieutenant Edmund Calvert Steer, of the late 3rd Madras European Regiment ... | For 12 months under the new Regulations. |

---

*No.* 69 *of* 1865.—Surgeon John James Clarke, of the Medical Department, in medical charge, 7th Bengal Cavalry, is permitted to proceed to Australia on medical certificate, and to be absent from Bengal on that account for two years under the old Regulations.

---

*No.* 70 *of* 1865.—The following order issued by the Government of Bombay, is confirmed :—

| | |
|---|---|
| *No.* 7, *dated* 4*th January* 1865.—Granting leave of absence to Europe, on medical certificate, to Major (Brevet Lieutenant Colonel) D. C. Shute, of the late 19th Regiment Native Infantry, Deputy Assistant Quarter Master General, Lahore Division ... | For 20 months under the new Regulations. |

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*No.* 71 *of* 1865.—The under-mentioned Officer has reported his r[illegible]n from England :—

| | *Date of arrival at Bombay.* |
|---|---|
| Colonel J. M. Ad[illegible] B., of the Roy[illegible] Ar[illegible] Deputy Adjutan[illegible] Royal Artillery ... | 30th Oct. 1864. |

---

*No.* 7[illegible] 6[illegible]—The following Military letter from the [illegible] Hon'ble the Secretary of State

for India, No. 389 of the 9th December 1864, is published for general information and guidance :—

MILITARY. INDIA OFFICE,

No. 389. *London, 9th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—With reference to my letter, dated 23rd November, No. 365, I have now to inform you that the Field Marshal Commanding-in-Chief proposes to issue a General Order to the Officers of the Army on the subject of exchanges of such Officers with Officers of the Staff Corps.

2. It appears desirable to His Royal Highness that Officers of the Staff Corps who wish to exchange should submit with their applications the recommendation and certificate laid down in paragraph 19, page 69 of the Queen's Regulations, to the effect that the exchange does not originate in any Regimental proceeding of any kind, or in any cause affecting the honor and character of the Officer concerned.

3. As, however, Officers of the Staff Corps serve in every variety of position, Civil and Military, His Royal Highness further considers that the "recommendation" in their case should be signed by the Adjutant General of the Army of the Presidency in which they serve, as an evidence of fitness for Line service, and the declaration countersigned by the Commanding Officer, or Head of Department under whose orders they may be at the time of application.

4. Your Government will issue the necessary nstructions for carrying out these views.

I have, &c.,
(Sd.) C. WOOD.

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*No.* 73 *of* 1865.—The under-mentioned Soldier is admitted to pension as specified opposite to his name :—

| | |
|---|---|
| Private John Lightowler, of the East Indian Regiment... | Rs. 14-14-6, fourteen Rupees fourteen annas and six pie per mensem payable in India. |

---

*The* 18*th January* 1865.

*No.* 74 *of* 1865.—The following promotions of Surgeons of the Bengal Medical Department to the rank of Surgeon Major are made under the provisions of Government General Order No. 507 of the 20th June 1864, subject to Her Majesty's approval :—

| Rank and Names. | From what date. |
|---|---|
| Surgeon Geo. Ranken Playfair, M.D. ... | 3rd November 1864. |
| Surgeon Wm. Fullarton Mactier, M.D .. | 3rd December 1864. |
| Surgeon James Lee, M.D. ... | 10th January 1865. |
| Surgeon George Banister ... | 12th January 1865. |
| Surgeon Francis Douglas, M.D. ... | 18th January 1865. |

*The* 19*th January* 1865.

*No.* 75 *of* 1865.—Her Majesty's 52nd Light Infantry having embarked for England per Ship "Alumbagh" on the 14th ultimo, is struck off the strength of the Bengal Presidency from that date.

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*No.* 76 *of* 1865.—Surgeon Major Francis Douglas, M.D., of the Medical Department, Civil Surgeon, Lucknow, is permitted to proceed to Europe, on private affairs, under the new Regulations for the last residue of the furlough on the same account granted to him in Government General Orders Nos. 203 of the 5th February 1857, and 247 of the 6th April 1863.

---

*No.* 77 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps, with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Captain (Brevet Major) John James Hood Gordon, of Her Majesty's 46th Foot, Commandant, 29th (Punjab) Regiment Native Infantry. | 29th May 1861. |
| Captain Richard Tophan, of Her Majesty's 88th Foot, Commandant, 16th Bengal Cavalry. | 19th January 1865. |
| Ensign Frederick Knowles, of Her Majesty's 19th Foot, 3rd Squadron Officer, 2nd Bengal Cavalry. | 4th September 1863. |

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*No.* 78 *of* 1865.—The following promotions are made in the Medical Department under the operations of G. G. O. Nos. 1060 and 1061 of the 23rd December 1864, subject to Her Majesty's approval :—

PROMOTIONS.

| Corps or Dept. | Rank and Names. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| Medical Department. | Asst. Surg. William Pesket Pol... | Surgeon ... | 1st April 1863 ... | Deputy Inspector General of Hospitals A. Wilson, retired. |
| | Asst. Surg. Stewart Clar Stati ... | Ditto ... | 28th May „ ... | Deputy Inspector General of Hospitals J. Balfour, retired. |
| | Asst. Surg. Henry Williams, M. D. | ... | 10th Sep. „ ... | Deputy Inspector General of Hospitals R. W. Faithfull, deceased. |
| | Asst. Surg. James Bedford | ... | 8th March 1864 ... | Surgeon Major A. White, M. D., retired. |
| | Asst. Surg. Francis Nottidge M namara, M. D., FEL. U. C. | ... | 15th June „ ... | An augmentation under the provisions of paragraphs 5 and 6 of G. G. O. No. 507 of 1864. |

## ALTERATIONS OF RANK.

| Corps or Dept. | Ranks and Names. | To rank from | In whose room. |
|---|---|---|---|
| Medical Department. | Surgeon Frederick Corbyn, M. D. ... | 16th May 1863 | Surgeon Major R. Whittall, retired. |
| | Surgeon Charles Lowdell ... | 25th " " | Surgeon Major H. W. Tytler, deceased. |
| | Surgeon John Hooper ... | 10th June " | Surgeon N. D. S. Wallich, deceased. |
| | Surgeon David Young, M. D., &c. ... | 24th July " | Surgeon Major Wm. Shillito, F. R. C. S., retired. |
| | Surgeon Joseph Fayrer, M. D. M. R. C. P. L., &c., &c. | 28th " " | Surgeon Major H. Diaper, deceased. |
| | Surgeon William Henry Adley ... | 24th Aug. " | Surgeon Major A. Grant, retired. |
| | Surgeon Edward John Vivian ... | 16th Sep. " | Surgeon Major A. Webb, M. D., deceased. |
| | Surgeon James Alexander Caldwell Hutchinson, M. D. | 25th " " | Surgeon Major T. Thomson, M. D., retired. |
| | Surgeon John Barclay Scriven ... | 12th Oct. " | Surgeon S. G. Bonsfield, retired. |
| | Surgeon Joseph Walter Raleigh Amesbury ... | 18th Dec. " | Deputy Inspector General of Hospitals M. McN. Rind, deceased. |
| | Surgeon Charles Stewart, M. D., (deceased) ... | 20th " " | Surgeon Major C. G. Andrews, retired. |
| | Surgeon Edward McKellar ... | 20th " " | Surgeon Major T. W. Wilson, retired. |
| | Surgeon Armesley Charles Castriot DeRenzy, B. A. | 12th March 1864 | Surgeon Major C. M. Henderson, M. D., retired. |
| | Surgeon Alexander Christison, M. D. ... | 24th " " | Deputy Inspector General of Hospitals W. Thomson, retired. |
| | Surgeon James Macnabb Cuningham, M. D. ... | 1st April 1864 | Deputy Inspector General of Hospitals J. B. Dickson, retired. |
| | Surgeon Joseph Christian Corbyn, M. B. ... | 8th " " | Surgeon J. W. Mountjoy, retired. |
| | Surgeon George Moncrieff Govan, M. D. ... | 15th June " | On augmentation under the provisions of paragraphs 5 and 6 of Government General Order No. 507 of 1864. |
| | Surgeon Richard Henry Perkins ... | " " " | |
| | Surgeon Stephen Chapman Townsend ... | " " " | |
| | Surgeon William Burns Beatson, M. D. ... | " " " | |
| | Surgeon Charles Thomas Paske ... | " " " | |
| | Surgeon William Frederick Blyth Dalzel, M. D. | " " " | |
| | Surgeon Samuel Bowen Partridge, Fel. U. C. | " " " | |
| | Surgeon Edward Taylor ... | 7th Aug. " | Surgeon C. Stewart, M. D., deceased. |
| | Surgeon Henry William Spry ... | 26th Sept. " | Surgeon Major G. Paton, M. D., retired. |
| | Surgeon Alfred James Dale, M. B. .. | 1st Nov. " | Deputy Inspector General of Hospitals G. S. Mann, F. R. C. S., deceased. |
| | Surgeon Arthur Young ... | 15th " " | Surgeon Major A. Simpson, M. D., &c., deceased. |

*Memorandum.*—Surgeons B. Simpson, M. D. A. B., George Hickie Daly, M. D., Peter O'Brien, F. R. C. S., and George Barnard, promoted to the rank of Surgeon in Government General Orders Nos. 675 and 936 of 1864, will be borne as supernumeraries, pending the instructions of the Secretary of State.

*No.* 79 *of* 1865.—The undermentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain Thomas Wakefield, of the Madras Staff Corps, Assistant Commissioner, Central Provinces. | For 20 months. |
| Lieutenant John Mowbray Trotter, of the General List, Infantry, Doing-duty Officer, 24th (Punjab) Regimen,t Native Infantry. | For 20 months under the new Regulations. |

*The 20th January* 1865.

*No.* 80 *of* 1865.—The following Extracts from the London Gazettes of the 4th, 15th, and 29th November last, are published for general information :—

WAR OFFICE, PALL MALL,
*4th November* 1864.

*Brevet.*

The under-mentioned Officer having completed the qualifying service in the rank of Lieutenant Colonel, to be Colonel under the Royal Warrant of 14th October 1858 :—

Captain and Brevet Lieutenant Colonel Henry Hamilton Maxwell, Royal Artillery, dated 23rd May 1864.

WAR OFFICE, PALL MALL,
*15th November* 1864.

*Brevet.*

Lieutenant Patrick Cowley, Deputy Commissary, Bombay, to have the honorary rank of Captain, dated 15th November 1864.

Lieutenant Jeremiah Coleman, Deputy Assistant Commissary, Bombay, to have the honorary rank of Captain, dated 15th November 1864.

Deputy Assistant Commissary Patrick McLonglin, Bombay, to be Lieutenant, the rank being honorary only, dated 15th November 1864.

WAR OFFICE, PALL MALL,
*29th November* 1864.

*Brevet.*

The under-mentioned promotions to take place in Her Majesty's Indian Forces consequent on the death of—

Lieutenant General Charles Denis Dun, Madras Infantry, on the 16th August 1864, and

Lieutenant General George Sandys, Madras Cavalry, on the 20th October 1864 :—

*To be Lieutenant Generals.*

Major General Robert Hawkes, Bengal Cavalry, dated 17th August 1864.

Major General Archibald Fullerton Richmond, C. B., Bengal Infantry, dated 21st October 1864.

*To be Major Generals.*

Colonel David [illegible]ington, [illegible] Madras Infantry, dated 17th August [illegible]

Colonel William [illegible] Andrew Freeman, Madras Infantry, [illegible] Police Staff [illegible] October 1864.

The undermen[illegible] have retired to such [illegible] rank as follows :—

*To be* [illegible]

Colonel James W[illegible], C. B., [illegible] Cavalry, dated 29th November 1864.

*To be Lieutenant Colonels.*

Major Richard West[illegible], Madras Infantry, dated 29th November 1864.

Major Alexander Campbell McNeill, Madras Staff Corps, dated 29th November 1864.

*To be Majors.*

Captain Charles Powden St. John Law, Bengal Infantry, dated 29th November 1864.

Captain Robert Maxwell, Bengal Infantry, dated 29th November 1864.

Captain George Oliver Geach, Bombay Infantry, dated 29th November 1864.

*No* 81 *of* 1865.—The leave of absence, on medical certificate, granted to Lieutenant C. E. Benthall, Officiating Adjutant, Lahore Light Horse, in Government General Order No. 1019 of the 14th December 1864, is extended to the 1st November 1864.

*No.* 82 *of* 1865.—The under-mentioned Officers having completed twenty years' service, six years of which were on permanent staff employ, to be Majors, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Captain C. C. Dandridge ... | 18th January 1865. |
| Captain H. P. Williams ... | Ditto. |
| Captain (Brevet Major) R. C. Cross ... ... | Ditto. |

*No.* 83 *of* 1865.—The under-mentioned Warrant Officer is admitted to pension as specified opposite to his name :—

| | |
|---|---|
| Sub-Condr. William Asher, of the Army Commissariat Department ... | 2*s.* 6*d.* per diem, as Sergeant Major, payable in Europe. |

*No* 84 *of* 1865.—The undermentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Surgeon Major William Wentworth Hende, M. D., of the Madras Medical Department, Civil Surgeon of Nagpore. | For 3 years, under the old Regulations, embarking at Bombay. |

*No.* 85 *of* 1865.—The under-mentioned Officers and Warrant Officer have reported their return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Major N. E. Boileau, of the Bengal Staff Corps, Deputy Judge Advocate General, Peshawur Division. | 11th January 1865. |
| Major C. E. Mills, of the late 28th Regiment, Native Infantry. | |
| Captain R. D. Griffin, of the late 64th Regiment, Native Infantry. | |
| Lieutenant (Brevet Captain) J. H. Tyler, of the late 20th Regiment, Native Infantry. | |

| | |
|---|---|
| Lieutenant E. G. Clayton, Royal Engineers.<br>Lieutenant C. H. Garbe[illegible] of the General List, In[illegible]ry.<br>Veterinary Surgeon J. Field, of the Bengal Establishment.<br>Conductor J. Parker, [illegible] the Ordnance Commissariat Department. | 11th January 1865. |
| Lieutenant J. W. Ridgeway, of the General List, Infantry.<br>Lieutenant E. Molloy, of the General List, Infantry Doing duty with the Kamroop Police Regiment. | 16th January 1865. |

*No.* 86 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Major Hugh Hayley, of the Bengal Staff Corps ... | For 20 months. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

*Fort William, the* 13*th January* 1865.

NOTIFICATIONS.

Under Section II of Act No. XXII of 1863, entitled "an Act to provide for taking land for works of public utility to be constructed by private Persons or Companies, and for regulating the construction and use of works on land so taken," His Excellency the Viceroy and Governor General in Council is pleased to declare that all reclamations of marshes, swamps, and low-lying land in the Island of Bombay, as well as all recoveries from the sea which have for their object the provision of building space, or space for wharfage, docks, quays, or landing places in the said Island, shall be included among works of public utility within the aforesaid Act.

ESTABLISHMENT.

No. 12.

*The* 17*th January* 1865.

Captain B. J. Prior, Officiating Controller, Public Works Accounts, Central Provinces, is granted two months' privilege leave from such date as he may avail himself of the same.

Mr. W. A. Billings, Accountant, 1st Class, will officiate as Controller, 3rd Class, during Captain Prior's absence.

No. 13.

Mr. A. B. Sampson, B. A., Assistant Secretary, Public Works Department, Government of India, is granted one month's privilege leave, with effect from the 16th instant.

No. 14.

Sergeant P. Heyward, Accountant, 3rd grade, attached to the Office of the Accountant General, Public Works Department, is granted six months' leave of absence on private affairs, with effect from the date he may avail himself of the same.

No. 15.

*The* 18*th January* 1865.

Baboo Doorgapersaud Mookerjee is re-appointed to the Department of Public Works in the grade of Overseer, 2nd grade, and posted to the North-Western Provinces.

No. 16.

Mr. W. Palmer, Accountant, 2nd Class, and Mr. F. Barnes, Assistant Accountant, 2nd Class, attached to the Office of the Accountant General in this Department, are promoted to be Accountant 1st grade and 2nd grade respectively, with effect from 1st November 1864.

R. STRACHEY, *Colonel,* R. E.
*Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTICE.

*Great Northern Assam Tea Company, "Limited," in Liquidation.*

Shareholders in the above Company are informed that a refund of the allotment fees to the extent of two Rupees and fourteen annas per share, will be made on application to the undersigned.

Shareholders who have not yet received the refund of the calls paid by them, are requested to apply for the same forthwith.

WM. J. JUDGE,
THOS. W. BROOKES,
*Liquidators.*

CALCUTTA,
14*th January* 1865.

### SHERIFF'S OFFICE.

Notice is hereby given that the Criminal Sessions of the High Court of Judicature at Fort William in Bengal in its Ordinary Original Jurisdiction for the year 1865, will be held on the undermentioned dates, viz. :—

| | | | | |
|---|---|---|---|---|
| 1st | Criminal Sessions, | | Thursday, | 19th January. |
| 2nd | do. | do. | Friday, | 10th March. |
| 3rd | do. | do. | Tuesday, | 25th April. |
| 4th | do. | do. | Monday, | 5th June. |
| 5th | do. | do. | Tuesday, | 18th July. |
| 6th | do. | do. | Monday, | 14th August. |
| 7th | do. | do. | Thursday, | 14th September. |
| 8th | do. | do. | Friday, | 24th November. |

H. DUNDAS,
*Sheriff.*

12*th January* 1865.

### STOLEN.

The Government Promissory Note No. 2477 of 2425 of 1842-43, for Rs. 500, of the 4 per cent. Loan originally [illegible]ding i[illegible] the name of Eshree Pershad, Comm[illegible]iat [illegible]ashtah, and finally endorsed to the [illegible]rsig[illegible]

Payment of the [illegible]nd interest thereupon has been s[illegible] Loan Office, and applicati[illegible] Government for the issue [illegible] in favour of the proprieto[illegible]

*The* 1[illegible] *January* 186[illegible]

RAM NARAIN.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 3.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, JANUARY 21, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

### FINANCIAL DEPARTMENT.

### Municipal Police and Municipal Affairs of the Central Provinces.

From C. BERNARD, ESQ., Secy. to Chief Commr., Central Provinces, to Secy. to Govt. of India, Financial Dept.,—dated Nagpore, the 2nd December 1864.

With reference to your Circular No. 2246 of the 31st August last, I am directed by Mr. Temple to submit the following Report on Municipal Police and Municipal affairs generally in the Central Provinces.

Contribution from Municipal Funds to cost of Town Police.

2. During the last two years much attention has been directed by this Administration to the matters which form the subject of the Resolution which your Circular under reply forwards. The result has been that 89 cities and towns and 3 cantonments in the Central Provinces defray the whole cost of their Municipal Police, aggregating Rs. 1,25,960 per annum. The numbers of the Municipal Police thus maintained stand at 1,491 men of all ranks. In some of these towns there are Police Stations or Out-posts of the General Police Force; but the regular Constabulary attached to such Stations and Out-posts are employed on the General Police business of the country, and in no way discharge any of the duties of Town Police. In general terms it may be affirmed that the Regular Police do not do any duty within the towns and cities of the Provinces.

Number of contributing towns subject to revision.

3. It cannot be confidently stated that 89 is the exact number of cities and towns in the Central Provinces which ought fairly to bear the cost of their Police from Municipal Funds; for, as above stated, the system of raising Municipal Funds and making Town Police a charge on such Funds, was only introduced into the Central Provinces two years ago. At the outset, the cost of their Police was charged on some small towns which were not fairly able to bear the burden. After investigation, such places were relegated to the category of villages, and were not required to maintain a Municipal Police. In such places there would only be village watchmen kept up.

Results of revision.

4. When the list of Municipalities was from time to time revised, new towns, whose importance and wealth had been previously under-estimated, were added to the list. Recently a revision of these lists in each district has been ordered, and this revision may possibly result in some small addition to the number of Municipalities given above. But it is not expected that such addition will be large.

Municipal Funds how expended.

5. The surplus Municipal Funds raised in towns and cities are always devoted to the improvement or embellishment of the towns and cities themselves. When a specific cross-road or bridge will confer special advantages on a town, its Municipal Funds contribute to the cost of such a work, but, generally speaking, these Funds, after defraying the cost of the Municipal Police, are expended in or about the towns which raise them.

6. In general terms, then, it may be said that the principle that every town and city should pay for its own Police has been for some time past fully in force throughout the Central Provinces.

Municipal Committees.

7. In every city and in most towns where funds are raised, there is a Municipal Committee, composed of elected towns-people, who advise concerning the objects on which the funds of their town are to be expended, and supervise, and even administer, all expenditure on works in their towns. Members of these Committees are usually nominated by the Deputy Commissioner. In Nagpore and Jubbulpore only have the inhabitants been found to be sufficiently advanced to elect their own Committees. But it is intended to extend the principle of election to other towns. In these two places, Nagpore and Jubbulpore, the Municipalities are conducted under Act XVIII of 1864.

Their powers.

8. In the appointment of the Municipal Committees for towns in the interior of districts, the end in view is that all Municipal bodies should have ultimately a control more or less complete over expenditure from the funds they raise. But at present these Committees generally have not acquired the habits of thought and action, and perhaps they do not yet possess sufficient public spirit to enable them to wield with advantage any very extended power over the funds of their towns. But it is hoped that such power may be increased year by year. At present the towns-people take interest in the subject, and are beginning to originate suitable improvements according to the circumstances of the places where they live. Thus it is expected that the germ of self-government in these sort of matters, and of self-dependence generally, may by degrees arise.

Funds are raised by town duties.

9. Municipal Funds in the Central Provinces are raised almost every where by town duties. And concerning this mode of raising Municipal Funds, I am to submit the following remarks.

Town duties are not transit duties.

10. Town duties as raised in the Central Provinces are not obnoxious to the objections to which transit duties are so open. Liability to duty is confined, as far as possible, to articles which are imported for actual consumption within a town. Goods in transit are exempt from town duty, so that there may be no perceptible restraint on trade. So very careful has this Administration been to guard against town duties operating in restraint of trade, that whenever a fair is held within a town-duty cordon, the levy of all duty at that town ceases during the currency of the fair.

Not levied at fairs.

11. Fairs are held at different times of the year in all districts of the Central Provinces at some 65 places. The attendance at these fairs varies from 1,50,000 souls on the largest occasions, to 2,000 or even 1,000 at the petty agricultural fairs. From time to time notices of fairs are published as supplements to the Central Provinces Gazette. Every possible encouragement is given to them by the district authorities. The booths are arranged in order, temporary road ways are made, Police parties are stationed to prevent thefts, and so on.

Growing prosperity of fairs.

12. The number of traders attending, and the value of articles exposed for sale at fairs, is increasing largely. Last year the aggregate value of articles exposed for sale at fairs, of which a report was received, amounted to Rs. 58,85,570-7-3, the value of articles sold to Rs. 36,96,880-7-3. And upon all this no town duty whatever has been or is to be levied. The increasing business of this particular branch of trade may perhaps be held to show that town duties in the Central Provinces, which are levied on local consumption only, do not operate in restraint of those branches and modes of trade to which the people are most accustomed.

Tariff of duties.

13. The tariff of duties is not the same in every town of these Provinces; but no tariff can be drawn up or altered without the Chief Commissioner's sanction. Special pains are taken to adjust tariffs so as to tax only local consumption, and so as to cause the least possible amount of trouble and vexation to the importer. Occasionally an individual complaint may be made regarding some item in a tariff, and if on investigation the tariff should appear objectionable, such item is modified.

Absence of dissatisfaction with town duties.

14. But no general complaint from any large section of the community has ever been preferred, directly or indirectly, so far as the Chief Commissioner is aware, against town duties. People may occasionally ask to be relieved from paying the duties, just as they would object to any kind of taxation whatever. But in the main it is believed that this (the town duty) mode of raising Municipal Funds is more acceptable to, or less objected to by, the tax-payers than any other form that could be adopted. Certainly there is no other tax from which an equal amount of Municipal Funds* could be raised with so little dissatisfaction on the part of the tax-payers. If the towns-people were to offer to raise the same amount in some other way, doubtless such proposition would be worthy of consideration. But, so far as is yet known, no such change would be preferred by the people. And until some preference shall be evinced, it may be best to leave well alone. The attention of all Commissioners and Deputy Commissioners has, however, been directed to the subject, so that if the people shall show any desire for another mode of raising the money, their wishes, if fair and reasonable, may be met.

* Amounting last year to Rs. 3,70,336-14-0 and expected to amount to Rs. 4,40,000 this year.

License duty not available for Local Funds.

15. I am here to remark that one mode of raising local income, which is described in the Calcutta Municipal Act, viz., a license duty on persons exercising trades and professions, has, from ancient times, been a source of Imperial Revenue in the districts which formerly composed the late Province of Nagpore, and in Sumbulpore. The Pandree tax, which, after revision, is expected to yield to the Imperial Revenue Rs. 2,25,000 a year, is in effect a license duty on trades and professions. This item of revenue is purely exceptional, and is kept up merely because it has always existed and because

it is unobjectionable in principle. The Chief Commissioner does not wish to give it up to the Local Funds, but to keep it for the General Treasury. But though this is paid without objection in some districts by virtue of custom and prescription, it by no means follows that the measure could be safely extended to other districts not accustomed thereto.

Funds raised by market dues in Seonee.

16. In the towns of one district of the Central Provinces, where the population is purely agricultural, funds for the payment of Municipal Police are raised by market dues. Every town and every considerable village in the Central Provinces has its weekly market day, on which wares of all kinds are brought for sale by traders, who make it their business to travel from one market town to another, and by agriculturalists, who have garden, farm, or dairy produce to dispose of. In the Seonee district a small fee, varying from one-twelfth of an anna to four annas, according to the character of the wares, is paid by every trader who brings his goods to market. No fee is levied from poorer classes who bring only grass, firewood, or forest fruits to market. It has been suggested that this system of raising funds for purely local purposes might with advantage be extended to other districts, and introduced into villages, where the population, though large, is for the most part agricultural. The Chief Commissioner is awaiting an expression of the opinions of local Officers before he submits for the orders of Government a recommendation on the subject.

Proposed extension of that system.

17. The concluding paragraphs of the Resolution forwarded with your Circular point out that any legislative enactment which may be necessary to the full carrying out of the views of Government, might confer on Municipal bodies the power of raising funds for educational purposes. With reference to this observation, I am to submit that many Municipal bodies in the Central Provinces have done something in the cause of Education by giving buildings for schools, or voting money to assist in building new school-houses. In submitting his views to the Government regarding the legislation which may be required, Mr. Temple will keep in view the necessity of enabling Municipalities to further the cause of education in any way they may think suitable.

Municipal Committees now provide educational buildings.

18. A report regarding the legislation which may be required, shall be submitted as soon as Mr. Temple shall be in possession of the views of local Officers on the points referred to in this letter.

PUBLIC WORKS DEPARTMENT.

## Results of Irrigation on the Canals.

*Table showing the results of Irrigation on the Canals in the North-Western Provinces and Punjab for the year* 1860-61.

| Canal. | Crops. | Mean discharge in cubic feet per second. | Acres irrigated. | Gross income. | Expenditure. | Profit. | Loss. | Rate per cre irrigated. | | | | Rate per cubic foot of discharge. | | | | Acres irrigated per cubic foot of discharge. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | Gross income. | Outlay. | Profit. | Loss. | Gross income. | Outlay. | Profit. | Loss. | | |
| | | C. feet. | Acres. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Acres. | |
| Ganges ... | Khurreef | 4,353 | 69,360 | 2,46,138 | 1,93,911 | 52,227 | ... | 3·54 | 2·78 | 0·67 | ... | 56·58 | 42·24 | 12·00 | ... | 15·93 | |
| | Rubbee ... | 5,290 | 2,73,549 | 3,98,977 | 2,23,148 | 1,75,829 | ... | 1·45 | 0·81 | 0·63 | ... | 75·41 | 42·18 | 33·26 | ... | 51·71 | |
| | Total ... | 4,821 | 3,42,909 | 6,45,115 | 4,17,059 | 2,28,056 | ... | 1·88 | 1·21 | 0·66 | ... | 133·50 | 86·32 | 47·18 | ... | 71·12 | |
| Eastern Jumna | Khurreef | 1,500 | 1,14,882 | 1,36,473 | 43,904 | 92,569 | ... | 1·18 | 0·38 | 0·80 | ... | 90·9 | 29·27 | 61·71 | ... | 76·58 | |
| | Rubbee ... | 665 | 1,46,445 | 1,39,625 | 60,256 | 79,369 | .. | 0·96 | 0·41 | 0·55 | ... | 209·43 | 90·61 | 109·05 | ... | 220·21 | |
| | Total ... | 1,082 | 2,61,327 | 2,76,098 | 1,04,160 | 1,71,938 | ... | 1·05 | 0·39 | 0·66 | ... | 255·02 | 96·18 | 158·84 | ... | 241·2 | |
| Dhoon ... | Khurreef | 105 | 2,281 | 6,895 | 7,574 | ... | 679 | 3·02 | 3·32 | ... | 0·31 | 65·66 | 72·13 | ... | 6·4 | 21·72 | |
| | Rubbee ... | 79 | 5,469 | 8,028 | 7,777 | 251 | ... | 1·46 | 1·42 | 0·04 | ... | 101·62 | 98·44 | 3·2 | ... | 69·22 | |
| | Total ... | 92 | 7,750 | 14,923 | 15,351 | ... | 428 | 1·92 | 1·98 | ... | 0·08 | 162·20 | 166·85 | ... | 4·65 | 84·23 | |
| Rohilkund ... | Khurreef | 390 | 47,519 | 23,325 | 11,827 | 11,498 | ... | 0·49 | 0·24 | 0·24 | ... | 59·80 | 30·32 | 29·2 | ... | 121·84 | |
| | Rubbee ... | 359 | 44,476 | 13,349 | 17,225 | ... | 3,876 | 0·30 | 0·38 | ... | 0·09 | 37·18 | 47·98 | .. | 10·8 | 123·61 | |
| | Total ... | 374 | 91,995 | 36,674 | 29,052 | 7,622 | ... | 0·39 | 0·31 | 0·08 | ... | 98·05 | 77·67 | 20·37 | ... | 245·97 | |
| Western Jumna | Khurreef | ... | 1,66,650 | 1,81,857 | 1,05,217 | 76,640 | ... | 1·09 | 0·63 | 0·46 | ... | ... | ... | ... | ... | ... | No return of discharge in cubic feet. |
| | Rubbee ... | ... | 2,76,485 | 2,81,487 | 1,00,535 | 1,80,952 | ... | 1·02 | 0·36 | 0·66 | ... | ... | ... | ... | ... | ... | |
| | Total ... | ... | 4,58,291 | 4,63,344 | 2,05,752 | 2,57,592 | ... | 1·01 | 0·45 | 0·56 | ... | ... | ... | .. | ... | ... | |

The charges on the Eastern and Western Jumna Canals do not include the cost of repairs of Main Water Courses.

*Table showing the results of Irrigation on the Canals in the North-Western Provinces and Punjab for the year* 1861-62,—continued.

| Canals. | Crops. | Mean discharge in cubic feet per second. | Acres irrigated. | Gross income. | Expenditure. | Profit. | Loss. | Rate per Acre irrigated. Gross income. | Outlay. | Profit. | Loss. | Rate per cubic foot of discharge. Gross income. | Outlay. | Profit. | Loss. | Acres irrigated per cubic foot of discharge. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | C. feet. | Acres. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Acres. | |
| Ganges ... | Khurreef | 4,453 | 77,522 | 2,85,194 | 2,50,666 | 34,528 | ... | 3·68 | 3·23 | 0·45 | ... | 64·06 | 56·30 | 7·76 | ... | 17·19 | |
| | Rubbee ... | 5,263 | 2,94,800 | 4,20,607 | 2,28,495 | 1,92,112 | ... | 1·42 | 0·78 | 0·64 | ... | 79·92 | 43·42 | 36·50 | ... | 56·01 | |
| | Total ... | 4,858 | 3,72,322 | 7,05,801 | 4,79,161 | 2,26,640 | ... | 1·90 | 1·29 | 0·61 | ... | 145·25 | 98·61 | 46·64 | ... | 76·62 | |
| Eastern Jumna | Khurreef | 954 | 71,244 | 88,796 | 56,154 | 32,642 | ... | 1·25 | 0·79 | 0·46 | ... | 93·06 | 58·85 | 34·21 | .. | 74·66 | |
| | Rubbee ... | 1,006 | 1,60,066 | 1,61,735 | 47,235 | 1,14,500 | ... | 1·01 | 0·30 | 0·71 | ... | 160·76 | 46·95 | 113·81 | ... | 159·11 | |
| | Total ... | 980 | 2,31,310 | 2,50,531 | 1,03,389 | 1,47,142 | ... | 1·08 | 0·45 | 0·63 | ... | 255·54 | 105·46 | 150·08 | ... | 235·94 | |
| Dhoon ... | Khurreef | 103 | 2,690 | 6,940 | 9,775 | ... | 2,835 | 2·58 | 3·63 | ... | 1·05 | 67·38 | 94·90 | ... | 27·52 | 26·11 | |
| | Rubbee ... | 88 | 6,061 | 9,071 | 12,768 | ... | 3,697 | 1·49 | 2·10 | ... | 0·61 | 103·08 | 145·09 | ... | 42·01 | 68·87 | |
| | Total ... | 96 | 8,751 | 16,011 | 22,543 | ... | 6,532 | 1·82 | 2·57 | ... | 0·75 | 166·78 | 234·83 | ... | 68·05 | 91·15 | |
| Rohilkund ... | Khurreef | 440 | 42,201 | 20,393 | 11,618 | 8,775 | ... | 0·48 | 0·28 | 0·20 | ... | 46·35 | 26·40 | 19·95 | ... | 95 | |
| | Rubbee ... | 396 | 45,480 | 15,140 | 13,870 | 1,270 | ... | 0·33 | 0·30 | 0·03 | ... | 38·23 | 35·02 | 3·21 | ... | 114·84 | |
| | Total ... | 418 | 87,681 | 35,533 | 25,488 | 10,045 | ... | 0·40 | 0·29 | 0·11 | .. | 85·00 | 60·98 | 24·02 | ... | 211·68 | |
| Western Jumna | Khurreef | ... | 1,41,775 | 1,70,350 | 1,04,830 | 65,520 | ... | 1·20 | 0·74 | 0·46 | ... | ... | ... | ... | ... | ... | No return of discharge in cubic feet. |
| | Rubbee ... | ... | 2,30,905 | 2,33,619 | 1,05,979 | 1,27,640 | ... | 1·01 | 0·46 | 0·55 | ... | ... | ... | ... | ... | ... | |
| | Total ... | 1,702 | 3,72,680 | 4,03,969 | 2,10,809 | 1,93,160 | ... | 1·08 | 0·57 | 0·51 | ... | 237·35 | 123·86 | 113·49 | ... | 218·96 | |

The charges on the Eastern and Western Jumna Canals do not include the cost of the repairs of Main Water Courses.

*Table showing the results of Irrigation on the Canals in the North-Western Provinces and Punjab for the year* 1862-63,—continued.

| Canals. | Crop. | Mean discharge in cubic feet per second. | Acres irrigated. | Gross income. | Expenditure. | Profit. | Loss. | Rate per Acre irrigated. Gross income. | Rate per Acre irrigated. Outlay. | Rate per Acre irrigated. Profit. | Rate per Acre irrigated. Loss. | Rate per cubic foot of discharge. Gross income. | Rate per cubic foot of discharge. Outlay. | Rate per cubic foot of discharge. Profit. | Rate per cubic foot of discharge. Loss. | Acres irrigated per cubic foot of discharge. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | C. ft. | Acres. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. | Acres. | |
| Ganges .. | Khurreef | 5,048 | 90,693 | 3,37,360 | 2,78,393 | 58,967 | ... | 3·72 | 3·07 | 0·65 | ... | 66·8 | 55·2 | 11·6 | ... | 17·96 | |
| | Rubbee ... | 4,850 | 1,14,912 | 1,94,917 | 3,54,535 | ... | 1,59,618 | 1·69 | 3·08 | ... | 1·39 | 40·2 | 73·1 | ... | 32·9 | 23·69 | |
| | Total ... | 4,949 | 2,05,605 | 5,32,277 | 6,32,928 | ... | 1,00,651 | 2·59 | 3·08 | ... | 0·49 | 107·5 | 127·6 | .. | 20·1 | 41·54 | |
| Eastern Jumna | Khurreef | 1,046 | * | 96,180 | 34,780 | 61,400 | ... | ... | ... | .. | ... | 91·9 | 33·3 | 58·6 | ... | ... | * No return of acres irrigated. |
| | Rubbee ... | 886 | ... | 1,19,394 | 42,473 | 76,921 | ... | ... | ... | ... | ... | 134·7 | 47·9 | 86·8 | ... | ... | |
| | Total ... | 966 | ... | 2,15,574 | 77,253 | 1,38,321 | ... | ... | ... | ... | ... | 223·1 | 79·9 | 143·2 | ... | ... | |
| Dhoon ... | Khurreef | 135 | 3,582 | 8,240 | 8,898 | ... | 658 | 2·30 | 2·48 | ... | 0·18 | 61·0 | 65·9 | ... | 4·9 | 26·53 | |
| | Rubbee ... | 87 | 4,394 | 7,408 | 12,080 | ... | 4,672 | 1·68 | 2·75 | ... | 1·07 | 85·1 | 138·8 | ... | 53·7 | 50·51 | |
| | Total ... | 111 | 7,976 | 15,648 | 20,978 | ... | 5,330 | 1·96 | 2·63 | ... | 0·67 | 140·9 | 188·9 | ... | 48·0 | 71·85 | |
| Ro[illegible] ... | Khurreef | 438 | 41,013 | 22,144 | 6,918 | 15,226 | ... | 0·54 | 0·17 | 0·37 | ... | 50·6 | 13·5 | 37·1 | ... | 93·63 | |
| | Rubbee ... | 412 | 34,331 | 15,140 | 13,870 | 1,270 | ... | 0·44 | 0·40 | 0·04 | ... | 36·7 | 33·6 | 3·1 | ... | 83·32 | |
| | Total ... | 425 | 75,344 | 37,284 | 20,788 | 16,496 | ... | 0·49 | 0·27 | 0·22 | .. | 87·7 | 46·5 | 41·2 | ... | 177·26 | |
| Western [illegible]mna | Khurreef | ... | 1,39,027 | 1,75,180 | 77,982 | 97,198 | ... | 1·26 | 0·56 | 0·70 | ... | ... | ... | ... | ... | ... | No return of discharge in cubic feet. |
| | Rubbee ... | ... | 1,64,334 | 1,76,939 | 78,737 | 98,202 | ... | 1·08 | 0·49 | 0·60 | ... | ... | ... | ... | ... | ... | |
| | Total ... | 1,624 | 3,03,361 | 3,52,119 | 1,56,719 | 1,95,400 | ... | 1·16 | 0·51 | 0·64 | ... | 217·4 | 96·5 | 120·9 | ... | 186·80 | |
| Baree Doab ... | Khurreef | 1,831 | 64,142 | 1,60,148 | 97,875 | 62,273 | ... | 2·49 | 1·52 | 0·97 | ... | 87·46 | 53·45 | 34·01 | ... | 35·03 | |
| | Rubbee ... | 1,577 | 66,724 | 1,61,898 | 1,48,362 | 13,536 | ... | 2·42 | 2·22 | 0·20 | ... | 102·66 | 94·08 | 8·58 | ... | 42·31 | |
| | Total ... | 1,704 | 1,30,866 | 3,22,046 | 2,46,237 | 75,809 | ... | 2·46 | 1·88 | 0·58 | ... | 188·98 | 144·50 | 44·48 | ... | 76·8 | |

The charges on the Ganges and Baree Doab Canals include the cost of repairs of Main Water Courses; on the Eastern and Western Jumna Canals, the cost of these repairs is *not* included in the charges.

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No. 4.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, JANUARY 28, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 7th January 1865, and is hereby promulgated for general information:—

ACT No. I OF 1865.

*An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.*

Preamble.

WHEREAS it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab to extend to Non-Regulation Provinces under the immediate administration of the Government of India, or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:—

Governor-General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

**1.** From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

**2.** From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his [illegible] and the Lieutenant-Governor of the Punjab as to [illegible] under his government, by notification in the Gazette of India, to extend to such Provinces and Territories respectively the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

**3.** Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of inconsistent Rules.

**4.** From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

**5.** This Act shall be called "The Acts and Regulations' Extension Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th January 1865, and was referred to a Select Committee.

No. 23 OF 1864.

*A Bill to legalize under certain circumstances the remarriage of Native Converts to Christianity.*

Preamble.

Whereas it is expedient to legalize under certain circumstances the remarriage of Native Converts to Christianity, deserted or repudiated, on religious grounds, by their wives or husbands; and to relieve minis-

ters of religion from the penalties to which they are now liable for solemnizing such remarriages; It is enacted as follows :—

Short title.

**1.** This Act may be cited as "The Remarriage of Converts' Act, 1865."

Commencement of Act.

**2.** This Act shall commence and take effect on and from the first day of December 1865.

**3.** In this Act—

Interpretation of terms.

"Native Husband." "Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall neither be a Christian nor a Jew.

"Native Wife." "Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall neither be a Christian nor a Jewess.

"Native Law." "Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians and Jews.

"Month" and "year." "Month" and "year" shall respectively mean month and year according to the British calendar.

"Number." And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Convert deserted by his wife on religious grounds may sue for conjugal society.

**4.** If a Native Husband change his religion for Christianity and if solely in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

**5.** If a Native Wife change her religion for Christianity and if solely in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Court in which suit shall be brought.

**6.** If the respondent, at the time of the commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

**7.** The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition shall bear a stamp of ten rupees, and may be amended by permission of the Court.

On petition, citation issued to respondent to appear and [illegible]

**8.** A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge, en[illegible]g the respondent to appear in Court on a day to [illegible] named in such citation, not less than one month after the service of a copy thereof on the respondent, and answer whether she or he refuses to cohabit with the petitioner.

Form of citation.

**9.** The citation shall be in the form in the second schedule to this Act or as near thereto as the circumstances of the case will allow.

Service of citation.

**10.** A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Procedure where respondent does not appear.

**11.** If the respondent shall not appear personally in obedience to such citation, and on every other occasion on which the respondent's appearance shall be required under the provisions of this Act, she or he shall be liable to punishment under the hundred and seventy-fourth Section of the Indian Penal Code, and the Court may authorize the Magistrate of the District to proceed under such Section against the respondent.

Points to be proved on appearance of parties.

**12.** On the day fixed in the citation the parties shall appear in Court, and the following points shall be proved :—

(1.) The identity of the parties :

(2.) The marriage between the petitioner and the respondent :

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years :

(4.) The desertion or repudiation of the petitioner by the respondent :

(5.) That such desertion or repudiation was solely in consequence of the petitioner's change of religion ;

(6.) And that such desertion or repudiation had continued for the six months next before the commencement of the suit.

First interrogation of respondent.

**13.** The Judge, if such points be proved to his satisfaction, shall thereupon ask the respondent whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal.

Interrogations [illegible] be public or privat[illegible]

**14.** Such [illegible]rroga[illegible] and every other in[illegible]terr[illegible]n mentioned in this Ac[illegible], at the discretion of [illegible]e, take place in open Court o[illegible] If any such interrogatio[illegible] Court, the Judge may, s[illegible]ue, exclude from the Cour[illegible] su[illegible]e shall think fit to exclud[illegible]

**15.** If the respondent, in answer to the Judge's interrogatories, shall refuse to cohabit with the petitioner, and allege, as the sole ground for such refusal, that the petitioner has changed his or her religion, the Judge shall make an order adjourning the case for one month, and directing that in the interim the parties shall, at such place and time as he shall deem convenient, have a private interview of not less than one hour in length, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal. Such interview shall be subject to any conditions as to privacy which the Judge shall think fit: Provided that no condition which might interfere with the ascertainment of the respondent's wishes respecting such refusal shall be imposed upon such interview.

Adjournment for a month if respondent refuses to cohabit on account of petitioner's conversion.

Parties in the interim to have a private interview.

**16.** At the expiration of such adjournment, the parties shall again appear in Court, and if the respondent, on being interrogated by the Judge, again refuse to cohabit with the petitioner, and allege, as the sole ground for such refusal, the petitioner's change of religion, the suit shall be adjourned for one year.

Second interrogation of respondent.

Adjournment for a year.

**17.** At the expiration of such adjournment the parties shall again appear in Court, and the petitioner shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to.

Point to be proved on expiration of adjournment.

**18.** In any such suit, proof of cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was solely in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of the marriage, and the desertion or repudiation of petitioner in consequence of conversion.

**19.** The provisions of the Code of Civil Procedure, as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

**20.** If the points mentioned in the twelfth and seventeenth Sections of this Act shall be proved to the satisfaction of the Judge, he shall adjourn the suit for one month, and direct that in the [illegible] the parties shall have another interview o[illegible] and subject to such conditions as he [illegible] the [illegible]t.

On proof of the requisite points, suit to be adjourned for a month and parties to have another interview.

**21.** At the exp[illegible] such adjournment [illegible] all again appear [illegible] of the respond[illegible] [illegible]ated by [illegible] cohab[illegible] and [illegible] petitio[illegible] aver[illegible]

At expiration of adjournment, if respondent refuse to cohabit, decree to pass permitting petitioner's remarriage.

sion as the sole ground for such refusal, the respondent shall be taken to have finally deserted or repudiated the peti[illegible]oner, and the Judge shall, by a decree under his [illegible]nd and sealed with the seal of his Court, declare that it shall be lawful for the petitioner to marry again: Provided that it shall not be lawful for the petitioner so to marry any person standing in such a degree of relationship to the respondent as that, if but one of them had been a male, such person and the respondent could not have intermarried.

**22.** If there shall be children of the petitioner and respondent, within the age of three years, in the sole custody or control of their father, or of any person by his authority, it shall be lawful for the Judge, on the application of their mother, to direct in the decree or by a subsequent order that such children shall be delivered to, and remain in, her custody until attaining such age, subject to such regulations as the Judge shall deem convenient and just.

The parties' children under the age of three years may be delivered to their mother on her application.

**23.** If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit, and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

**24.** If at any time after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall recommence at the stage at which it had arrived immediately before the passing of such decree; and after the proofs, interrogations, interviews, and adjournments which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature and subject to the proviso mentioned in the twenty-first Section of this Act.

Revival of suit after such dismissal.

**25.** If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Petitioner's cruelty or adultery to bar the suit.

**26.** If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dis-

Male petitioner's cohabitation with one of several wives to bar the suit.

missing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

Male petitioner's remarriage not to affect status or rights of his Native wife or children.

**27.** If the petitioner, being a male, shall marry again under the provisions of this Act, such remarriage shall not operate to deprive the respondent or her children (if any) by him, of the status which they would have had as his lawful wife or legitimate children, or (subject to the provisions hereinafter contained) of any right or interest which she or they would then have had, according to the Native law applicable to her or them, by way of maintenance, dower, inheritance, or otherwise, in case the petitioner had not so married again as aforesaid.

Rights of Native wife in case she and remarried Convert's wife survive him.

**28.** If any such petitioner predecease the respondent and the woman whom he shall have so married, the respondent (subject to the provisions hereinafter contained) shall succeed, according to the Native law applicable to her, to such interest (if any) in the whole or part of the petitioner's property as she would have been entitled to had she been his senior widow or one of his widows as the case may be.

Intercourse between remarried petitioner and the respondent during remarriage to be deemed adulterous.

**29.** If during any such remarriage, intercourse take place between the petitioner and the respondent, such intercourse shall be deemed adulterous, and the children (if any) born in consequence thereof shall be illegitimate.

After decree permitting petitioner's remarriage, respondent may remarry.

**30.** After the passing of a decree permitting any such remarriage and the dismissal of the appeal (if any) against such decree, it shall be lawful for the respondent also to remarry, and the issue of such remarriage shall be legitimate, any Native law to the contrary notwithstanding. But upon the respondent's remarriage, all rights and interests which she or he may then have in the petitioner's property by way of maintenance, inheritance, or otherwise, shall cease and determine as if the respondent had then died; and the petitioner, or, if the petitioner be dead, the persons entitled to such property on the respondent's death, shall thereupon succeed to the same.

On such remarriage respondent's claim on the petitioner's property to cease.

Minister of religion not bound to celebrate remarriage legalized by this Act.

**31.** The celebration of any remarriage legalized by this Act shall not be obligatory on any minister of religion.

Power to Court to award alimony.

**32.** If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

Appeal against orders and decrees under this Act.

**33.** An appeal shall lie against any order or decree made or passed by any Court under the provisions of this Act to any Court to which an appeal would lie against an order or decree made or passed by the former Court in any Civil case. Every such appeal shall be subject to the rules relating to Regular Appeals contained in the Code of Civil Procedure, so far as such rules are applicable to the case.

Extent of Act.

**34.** This Act shall extend to all the territories that are or shall become vested in her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

*Form of Petition.*

Stamp Rs. ten

To the Judge of the Civil Court of .

The day of 18 .

The petition of A. B. of

Sheweth :—

1. That your petitioner was born on or about the day of 18 .

2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at .

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 ; and that there are now living children, and no more, of such marriage, aged respectively and years.

5. That previous to the day of 18 your [illegible]ioner ch[illegible]ged his religion for Christianity, an[illegible] on s[illegible]ay he was baptized and became a me[illegible] terr[illegible] church of .

6. That on t[illegible] Ac[illegible] 18 [*at least six months p[illegible]re, of the petition*], the said C. [illegible] lfer, and has not since res[illegible] him.

7. T[illegible] as solely in consequenc[illegible] your p[illegible]'s said change of religi[illegible]

8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with your petitioner, or declare that it shall be lawful for your petitioner to marry again.

A. B.

*Form of Verification.*

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

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THE SECOND SCHEDULE.

*Form of citation.*

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you, the said C. D., has filed his petition against you in the Civil Court of praying that you may be ordered to live and cohabit with him, or that it may be declared that it shall be lawful for him to marry again, and alleging that you the said C. D. have deserted him for six months solely in consequence of his having changed his religion for Christianity: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing you will be liable to punishment under the hundred and seventy-fourth section of the Indian Penal Code.

Dated the day of , 18

(Signed) E. F.

Judge of the Civil Court of

*Endorsement to be made after service.*

This citation was duly served by G. H. on the within-named C. D. of at on the

day of , 18 .

(Signed) G. H.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to legalize under certain circumstances the remarriage of Native Converts to Christianity, whose wives or husbands have deserted or repudiated them exclusively on religious grounds. The question has been before the Government of India for a very long time, but the settlement of it has been delayed, chiefly on account of the great difference of opinion which has proved to exist between the religious bodies and persons most strongly interested in the matter as to the circumstances under which the remarriage of a Convert, before the death of the first wife or husband, may be considered permissible.

The present [illegible] attemp[illegible] solve the difficulty by an interposi[illegible] the [illegible]lar power, leaving missionaries and [illegible] religion to act on their own views [illegible] rates [illegible]arrying their Converts. The [illegible] of the measure is marked by th[illegible] e, that it is no longer exp[illegible] es on ministers of religion s[illegible] res, and by the provision tha[illegible] n shall be compellable to ava[illegible] permitted by the Bill.

The persons entitled to relief under the Bill are defined as "Native Husbands," and "Native Wives." A "Native Husband" is a married man domiciled in India, being neither a Christian nor a Jew, who shall have completed the age of sixteen years. A "Native Wife" is correspondingly defined, except that the limit of age is thirteen years. It may be convenient, in describing the nature of the measure, to confine the statement to the case of a Native Husband.

The ground of relief is, in conformity with the draft Bill prepared by Sir Barnes Peacock, the "desertion or repudiation" of the Native husband by the Native wife, when such desertion or repudiation has taken place solely in consequence of the husband's having changed his religion for Christianity. The Bill further follows Sir Barnes Peacock's draft in providing (Section 18) that the wife's refusal or voluntary neglect to cohabit with her husband after his change of religion shall be sufficient evidence of the desertion or repudiation, and also, unless some other cause be shown, that the desertion or repudiation was in consequence of the husband's change of religion.

The mode of relief is by suit for conjugal society. In the course of the suit, many separate interrogatories will be addressed to the Native wife by the Judge for the purpose of conclusively ascertaining her refusal to join her husband, and various private interviews are provided for as means of conciliation. It is only after all these efforts to overcome the wife's distaste have failed, that the Judge may make a decree permitting the husband to remarry.

The desertion or repudiation must have continued for six months before the commencement of the suit. On the day fixed in the citation for the hearing, the respondent must appear personally, and the petitioner must prove the identity of the parties, the marriage, the age of himself and of his wife, the desertion or repudiation, its cause, and the fact that it occurred six months before the commencement of the suit and has continued ever since. These points being ascertained, the Judge (who will be a High Court Judge in the Presidency Towns, and a Zillah Judge in the Mofussil) will interrogate the respondent, but not necessarily in open Court. If the respondent allege the petitioner's change of religion for Christianity as the sole reason for her declining to cohabit with him, the case will be adjourned for a month, and provisions will be made for a private interview between the husband and wife, subject only to such conditions as to privacy as may not interfere with the free will of the latter.

At the end of the month the parties will reappear, and the wife will be further interrogated. If she still persist in her refusal, there will be a further adjournment for a year, and at the close of the year, the petitioner will be bound to prove that the desertion or repudiation has continued down to that time. The respondent will then be further interrogated, and arrangements will be made for a second interview. Should this still result in the wife's refusal to join her husband, the Judge will at length make the decree before-mentioned legalizing a remarriage.

The whole time necessarily occupied by these proceedings will be twenty months. Taking into account the preparations for the suit and the time required for the hearings, the entire interval between repudiation and remarriage will probably be about two years. These periods of time are,

however, only inserted in the Bill *pro formâ*, and can be altered in Committee. The further provisions of the Bill which call for special notice are the following :—

Cruelty or adultery proved against the petitioner will bar the suit.

The children of the first marriage retain their personal and proprietary rights, and, if under the age of three years, may remain in their mother's custody until attaining that age. The wife retains the status which she would have had as lawful wife, and forfeits no right to maintenance, dower, or inheritance.

The respondent (the Native wife) is allowed to remarry after the decree permitting the petitioner's remarriage (Section 30); but if she remarries, she forfeits all rights or interests she may have in the petitioner's property.

If the wife has not sufficient property to maintain herself, the Judge may award alimony to her; and may also order the husband to provide her with funds to prosecute or defend the suit, if she be in need of them.

A Convert married to several Native wives will have to make them all respondents in the suit.

The provisions of the Bill with reference to Native wives deserted or repudiated by their husbands on religious grounds are the converse of those just recited, with the exception of the last.

The remaining provisions are of a technical character.

HENRY S. MAINE.

*The 29th December* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department (Legislative).*

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The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 29 OF 1864.

*A Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.*

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows :—

Short title.

**1.** This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause. Assistant Commissioner.

**2.** In this Act—

"Assistant Commissioner" shall include Extra Assistant Commissioner.

Grades of Courts in the Central Provinces.

**3.** There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1). The Court of the Tahsildar of the first class.

(2). The Court of the Tahsildar of the second class.

(3). The Court of the Assistant Commissioner of the first class.

(4). The Court of the Assistant Commissioner of the second class.

(5). The Court of the Assistant Commissioner of the third class.

(6). The Court of the Deputy Commissioner.

(7). The Court of the Commissioner.

(8). The Court of the Judicial Commissioner.

Local Government may declare grade to which a Tahsildar or Assistant Commissioner belongs.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Local Government may give Naib Tahsildars jurisdiction up to rupees fifty.

**5.** The Local Government shall also have power to invest such Naib Tahsildars as it shall think competent, with jurisdiction in suits for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage or demand does not exceed in amount or value the sum of fifty rupees.

Jurisdiction of Court of Tahsildar of the first class.

**6.** The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the second class.

**7.** The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

**8.** The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

**9.** The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

**10.** The Court of the Assistant Commissioner of third class shall have power to try and determine suits of every descr[illegible]tion not exceed[illegible] five t[illegible] and rupees in [illegible] or a[illegible].

Jurisdiction of [illegible] of Deputy C[illegible] sioner.

**11.** The Court [illegible] the [illegible]ty Commissioner [illegible]ver to try and [illegible] every des[illegible] g five thousand [illegible] or amount, and [illegible]s, and (where an [illegible] Civil Procedure), [illegible] the first, second, [illegible] every

to hear a[illegible] from the [illegible]
appeal is [illegible] by the [illegible]
from the [illegible] the Cou[illegible]
third and fo[illegible] grades res[illegible]

Jurisdiction of Court of Commissioner.

**12.** The Court of the Commissioner shall have power to hear and determine appeals from the original decisions passed in suits and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the fifth and sixth grades.

Jurisdiction of Court of Chief Commissioner.

**13.** The Court of the Chief Commissioner shall have power to hear and determine applications for a special appeal as provided in the Code of Civil Procedure from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Court in which suit shall be instituted.

**14.** Every suit shall be instituted in the Court of the lowest grade competent to try it. Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Transfer of suits from subordinate Court to Deputy Commissioner's Court.

**15.** It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to him, and to try such suit himself or to refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same.

Chief Commissioner or Commissioner of a Division may order transfer of suits from one subordinate Court to another.

**16.** It shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner shall be transferred to any other such subordinate Court competent, in respect of the value of the subject-matter of the suit or appeal, to try the same.

Suits for immoveable property situate in different Districts.

**17.** If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

**18.** If the Distric[illegible] hin th[illegible] fa[illegible]ts of which the i[illegible]eabl[illegible]perty is situate [illegible] to different Com[illegible]rates. [illegible] application [illegible] Com[illegible] [illegible] wh[illegible]trict in which the suit is b[illegible] the Commissioner to which [illegible] dication [illegible] He may, with the concurrenc[illegible] Commis[illegible] which the other District [illegible]ct, give [illegible] to proceed with the suit.

Appeal to lie from all decisions except when expressly prohibited.

**19.** Except when otherwise provided in any Re[illegible]lation or Act for the tim[illegible] being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Construction of District Court as used in Code of Civil Procedure.

**20.** The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Commencement of Act.

**21.** This Act shall commence and come into operation on the day of 186 .

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STATEMENT OF OBJECTS AND REASONS.

The jurisdiction now exercised by the Civil Courts in the Central Provinces is derived, not from any express provision of law, but from orders passed from time to time by the Executive Government. These orders, bearing a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called in question; but it is felt that the constitution of the Civil Courts in the Central Provinces is not so satisfactory as could be desired; and the Chief Commissioner having requested that the Government of India will be pleased to confer Civil jurisdiction in suits of a small amount upon a class of Officers who have not hitherto exercised any of the functions of a Civil Judge, which cannot be done without a law, it seems desirable that, instead of confining the scope of any Bill introduced to this single object, the opportunity should be taken to place the Civil Courts generally of the Central Provinces on a legal basis similar to that upon which the Courts in British Burmah were placed by Act I of 1863, and to give them a similar legal status. This is the object of the Bill, which follows the form of the British Burmah Act in so far as it defines the jurisdiction of the Courts to which it refers.

H. B. HARINGTON.

*The 5th January* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India*
*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in six weeks :—

No. 30 of 1864.

*A Bill to define and amend the law relating to Marriage and Divorce among the Parsees.*

Whereas it is expedient to define and amend the law relating to Marriage and Divorce among Parsees; It is enacted as follows :—

Short title.

**1.** This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Parsee."

"Parsee" means or applies to a person professing the religion of Zoroaster, and domiciled in British India.

"Priest."

"Priest" includes Dastúr and Mobed.

"Marriage."

"Marriage" shall mean a marriage between Parsees contracted after the commencement of this Act.

"Section."

"Section" means a Section of this Act.

"High Court"

"High Court" means the highest Civil Court of appeal in any part of British India.

"Local Government."

"Local Government" means the person authorized to administer Executive Government in any part of British India or the Chief Executive Officer of any part of British India under the immediate administration of the Governor General of India in Council when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government.

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

"Gender."

Words importing the masculine gender include females.

Requisites to validity of Parsee marriages.

**3.** No marriage shall be valid, if the parties contracting the same are related to each other in any of the degrees of consanguinity or affinity prohibited by common custom among Parsees, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "A'sírvád" by a Parsee Priest in the presence of two or more Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee under the age of twenty-one years, the consent of his father or guardian shall have been previously given to such marriage.

Registry of marriages.

**4.** Every marriage shall, within eight days after the solemnization thereof, be registered in the form contained in the Schedule to this Act, in a book to be kept by a Registrar, who shall be some proper person appointed for that purpose by the Parsee Panchayat of the Zillah or District in which the marriage shall have taken place; and every entry of a marriage in the said book shall, within the space of eight days from the date of such marriage, be signed by the persons following (that is to say), the said Registrar, the contracting parties, the fathers or guardians of such (not being of full age), the Priest solemnizing the marriage, and the witnesses present at the same; and it shall be incumbent upon the contracting parties respectively, if they shall have attained the age of twenty-one years, and upon the father or guardian of such contracting party (if any) as shall not be then of full age, to give notice to the Registrar of the marriage having been so contracted, and to cause the marriage to be duly reigstered in his said book upon payment to him of the fee of two rupees, to the payment of which fee both the said contracting parties shall, in equal proportions, be liable.

Declaration by persons married.

**5.** Every Parsee, having attained the age of twenty-one years at the time of his or her marriage, shall, immediately upon the said entry thereof being so made in the said register, make and subscribe in the presence of the Registrar, the following declaration below the entry of the marriage in the said register :—

Form of declaration by person married.

"I hereby solemnly declare that the above registry is correct, and that my marriage with did take place as therein mentioned, and was duly solemnized with my consent."

A. B.

*Made and subscribed at this day of before me.*

E. F.
Registrar.

But no husband or wife not having attained the said age at the time of such marriage shall make or subscribe such declaration.

Declaration by father or guardian of infant married.

**6.** The father or guardian of every Parsee who shall not, at the time of his or her marriage, have attained the age of twenty-one years, shall make and subscribe in the presence of the Registrar the following declaration below the entry of the marriage in the said register :—

Form of declaration by father or guardian.

"I do hereby solemnly declare that the above registry is correct so far as regard the particulars therein relating to the said and me, this declarant, and that the marriage therein mentioned was duly solemnized with my consent."

A. B.
Father or guardian of C. D.

*Made and subscribed at this day of before me.*

E. F.,
Registrar.

Marriage r[illegible] to be open for [illegible] inspection.

**7.** Ev[illegible] register [illegible] marriages shall, at a[illegible] r[illegible]ble times, be open for [illegible] inspection, and certified [illegible]ts therefrom shall, on [illegible]ion, be given by the resp[illegible] [illegible]hir[illegible]ent to them by the app[illegible] [illegible]as for each such extract; a[illegible] your[illegible] suc[illegible] [illegible]s shall, without further [illegible] [illegible]e receiv[illegible] [illegible] Courts to which this Act [illegible] [illegible]as eviden[illegible] [illegible]he truth of the statements [illegible] contained [illegible]s and until the same shall be p[illegible]ed to be fal[illegible]

**8.** Every person required by this Act to make and subscribe any or either of the foregoing declarations, and wilfully omitting or neglecting so to do, shall, on conviction thereof before any Magistrate or other Court having jurisdiction in the place where he may reside, be punished for every such offence with a fine not exceeding one hundred rupees; and every Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the ninth Section of this Act, shall, on conviction thereof before any such Magistrate or Court, be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to make declarations.

**9.** It shall not be lawful for any Parsee to contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorcement from such wife or husband, by sentence of a Pancháyat as is hereinafter provided; and every marriage which may be hereafter contracted contrary to the provisions of this Section shall be deemed void. Every Parsee who shall, during the life-time of his or her wife or husband, contract any marriage without such lawful divorcement from such wife or husband, shall be subject to the penalties provided in the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

Re-marriage save after divorce unlawful during life-time of first wife or husband

**10.** If a Parsee husband or wife shall at any time after marriage be transported or deported for the term of his or her natural life by the sentence of any competent legal tribunal, such marriage shall after the space of one year next following the passing of such sentence, be voidable at the election of his or her wife or husband, such election being first duly notified by the said wife or husband to the Pancháyat of her or his place of residence.

Voidability of marriage in case of transportation for life.

**11.** If a Parsee shall have been or be a lunatic or of habitually unsound mind at the time of his or her marriage, such marriage shall be at any time voidable by the Pancháyat of his or her last place of residence at the instance of his or her wife or husband, upon proof, to the satisfaction of the same Pancháyat, that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues.

Voidability of marriage in case of lunacy or mental unsoundness.

**12.** If a Parsee husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of within that time by such his or her wife or husband as being alive, their marriage shall be voidable by the Pancháyat of his or her last know[illegible] domicile a[illegible] instance of the said wife or husband, [illegible] of suc[illegible]tent husband or wife, upon proof of i[illegible] aforesa[illegible] facts being made to the satisfaction [illegible] Pancháyat.

Voidability of marriage in case of absence for seven years.

**13.** In any case [illegible] and shall be [illegible] the [illegible] impotent [illegible] incurable description, or wh[illegible] the marriage has not taken [illegible] consequ[illegible] of the wife's malformation [illegible] marriage [illegible]

Voidability of marriages on the ground of impotency.

voidable by the Pancháyat of his or her last known domicile at the instance of the other party to such marriage, upon proof of the aforesaid facts being made to the satisfaction of the same Pancháyat: Provided that the husband shall not set up his own impotency as a ground for nullifying his marriage.

**14.** A marriage in case either of the parties thereto shall have changed his or her religion shall be voidable by the Pancháyat of his or her last known domicile, at the instance of the other party to such marriage, upon proof of such fact being made to the satisfaction of the same Pancháyat.

Voidability of marriage in case of conversion.

**15.** It shall be lawful for any Parsee husband to present a petition to the Pancháyat of the proper domicile that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and it shall be lawful for any Parsee wife to present a petition to the Pancháyat of the proper domicile, praying that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery or fornication with any married or unmarried woman, not being a prostitute, or of bigamy coupled with adultery, or of rape, or of an unnatural offence.

Husband's petition for dissolution of marriage.

Wife's petition for dissolution of marriage.

**16.** If a Parsee husband treat his Parsee wife with such cruelty or personal violence as to render it in the judgment of the Pancháyat or other lawful tribunal improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation *a mensâ et thoro*, and her husband shall, in such a case, provide her with separate maintenance, so long as she continues of chaste conduct, according to his means and rank in life; but no divorce shall be granted for cruelty, except in the case specified in the fifteenth Section.

Grounds of judicial separation *a mensâ et thoro*.

**17.** Applications for divorce or for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the Pancháyat of the town or district in which the respondent resides or last resided, which Pancháyat is hereby authorized and required to hear and determine such petition; and on the said Pancháyat's being satisfied of the truth of the allegations contained in such petition, and that the offence therein set forth has not been condoned, and that the said husband and wife are not colluding together to obtain a divorce, and that the petitioner has not connived at, or been party to, the said offence, and that there has been no unnecessary or improper delay in presenting the said petition, and that there is no legal ground why the same should not be granted, then and in such case, but not otherwise, the said Pancháyat shall and may decree such divorce or judicial separation accordingly; and where any such application is made by the wife, may order the husband or secure to the wife out

Petition for divorce or judicial separation.

Alimony may be ordered.

of his property such gross or capital sum, or such monthly or periodical payments of money for any term not exceeding her life as, having regard to her own property (if any) her husband's said property, and the conduct of the parties, shall be deemed just, or make any other order in that behalf for alimony, which, regard being had to the circumstances aforesaid, shall be deemed just. And in case any such order shall not be obeyed by her husband, he shall be liable to action upon the same at her suit, and further to be sued by any persons supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Petition for restitution of conjugal rights.

**18.** Where a husband has deserted or (without lawful cause) ceased to cohabit with his wife, or shall hereafter so desert or (without lawful cause) so cease to cohabit, or where a wife hath deserted or (without lawful cause) ceased to cohabit with her husband, or shall hereafter so desert or (without lawful cause) so cease to cohabit, and the party so deserted or with whom cohabitation hath or shall have so ceased, shall apply to the Pancháyat of the District or place within which the other party may reside, by petition for the restitution of his or her conjugal rights, the said Pancháyat shall thereupon proceed duly to cite the party respondent to such petition, and duly to take evidence in that behalf and inquire into the allegations of such petition, and shall, upon being duly satisfied of the truth of the said allegations, and that there is no just ground why the said petition should not be granted, proceed to decree such restitution of conjugal rights accordingly. In case such decree shall not be obeyed by the party against whom it is given, he or she shall be deemed a wrong-doer, and liable in damages thereupon in an action on the case at the suit of the other party.

Parsee Pancháyat to try all questions under this Act.

**19.** The Pancháyat of any Town or District nominated and appointed in manner hereinafter mentioned shall have power and authority to hear, determine and adjudicate all cases and questions arising under this Act between Parsee inhabitants of such Town or District.

Pancháyat may examine parties and witnesses on oath and its decision shall be final.

**20.** The said Pancháyat shall have power to summon and examine both parties and their witnesses on oath or affirmation; and the decisions of such Pancháyats, if not reversed or altered on the appeal given by the twentythird Section shall be final, and shall be upheld by all legal tribunals; provided nevertheless that it shall always (after any final decree for a divorce, either by the Pancháyat or upon appeal, or after the expiration of the time hereinafter limited for an appeal, without an appeal, against any such decree for a divorce, having been presented) be lawful for the parties thereby divorced to intermarry together again; and every witness duly summoned, who shall intentionally omit to attend at the time and place specified in such summons, or depart from such place before the time at which it is lawful for him to depart, or who shall intentionally omit to produce or deliver up any document which he may be legally required to produce or deliver up, or who shall refuse to answer any question which he may be legally required to answer, shall, on proof of the facts before any Magistrate or Court having jurisdiction with respect to the offence, be liable to the punishment provided in Sections 174, 175 and 179 respectively of the Indian Penal Code, and all persons wilfully deposing or affirming falsely in any proceeding before the Pancháyat, shall be deemed to be guilty of the offence of giving false evidence, and shall be liable, on conviction before a competent tribunal, to all the pains and penalties attached thereto.

Mode of examination.

**21.** The examination of parties and of witnesses in any cause or proceeding under this Act shall be taken orally and openly in and by the Pancháyat in the presence and hearing and under the personal direction and superintendence of the said Pancháyat; and the evidence of each witness shall be taken down in writing, and the proceedings of the said Pancháyat shall be conducted and recorded in the vernacular language by the President, Secretary, or other Officer appointed for that purpose by the said Pancháyat. And every such examination shall be taken and recorded in the form of a narrative, and when completed shall be read over in the presence of the said Pancháyat and of the witness, and also in the presence of the party or parties or their representatives, and certified by the President of the said Pancháyat or any member thereof acting as President thereof for the time being. The Pancháyat shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

Examination of absent witnesses.

**22.** When the evidence of a witness is required who is not living in the Town or place where the said Pancháyat is held, or who is unable from sickness or infirmity or other cause to attend before the said Pancháyat, the said Pancháyat may authorize the Pancháyat of the place where the witness may be residing, or any one or more person or persons thereat resident, or may depute thither one or more of its own members or Officers to take down the examination of such witness on interrogatories or otherwise; and every such examination shall be taken down in writing, and shall be read over to and shall be duly certified by the persons so authorized to take the same; and shall form part of the record of the cause or proceeding in which it is taken. In every such case either party shall be entitled to be present in person or by representative at much examination.

Appeal to High Court.

**23.** An appeal shall lie from the decision of the Pancháyat to the High Court on the ground of the decision being contrary to some law, or usage having the force of law, or of a substantial error or defect in the investigation of the case which may have produced error or defect i the decision of the case upon the merits, or of any grave misconduct of the Pancháyat in relation to any of the matters aforesaid; provided that such appeal be instituted with, three months after the decision of Pancháyat shall have been pro nounced.

**24.** O[illegible] being made to the High [illegible] in conformity with the [illegible] contained in the [illegible] Section, the Pan[illegible] from whose decision [illegible] shall, upon receiving [illegible] send to the said High

Court, with all practicable despatch, the record of the case, together with all material papers in the cause or proceeding, or such papers as may be specially called for by the High Court in that behalf.

Act not to apply to marriages solemnized before passing of Act.

**25.** Nothing herein contained shall apply to any marriage or ceremony of marriage performed before the passing of this Act, or in any wise affect the same, whether by giving validity thereto, or by invalidating the same. And the validity or invalidity thereof respectively shall be, and continue to be, the same as it was at the time of the passing of this Act.

Form of application to Pancháyat.

**26.** Every application made to a Pancháyat under this Act shall be in writing and shall be subscribed by the applicant or his or her representative (if any). It shall also be verified at the foot by the applicant in the manner following or to the like effect :—

Form of verification.

"I (A B), the applicant named in the above application, do declare that what is stated therein is true, to the best of my information and belief."

Punishment for making false averments.

**27.** If any such application shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabrication of false evidence.

Number of Pancháyat.

**28.** The Pancháyat for adjudicating cases arising under this Act shall, for the Town and Island of Bombay, consist of twelve members, of whom one shall be President, and for other Towns or Districts of such number of members, not exceeding twelve and of whom one shall be President, as the Local Government may see fit to fix; and shall be elected, constituted, and appointed according to such Rules and Regulations, in regard to the qualifications of electors and members and other matters as may be hereafter sanctioned and approved of by the Governor in Council of the Presidency or place: Provided that in the Town and District of Surat the Office of President of of the Pancháyat shall be hereditary in the family of Khurshedji Dodabhái deceased, Dawur of the Parsees of Surat, and shall be held by the person who shall for the time being be the senior representative, according to the Parsee law of inheritance, of the said Khurshedji Dodabhái.

President of Surat Pancháyat.

Pancháyat may alter rules.

**29.** Any Pancháyat duly constituted and appointed as aforesaid shall have power to alter, vary, or amend such rules from time to time, subject t[illegible] confirm[illegible]n of the Local Government, wh[illegible] dete[illegible] and may alter the territorial jurisd[illegible] of [illegible] Pancháyat, the limits of the jurisdictio[illegible]ed or altered being promulagated [illegible] *Gazet*[illegible]

Commencement and extent of Act.

**30.** Th[illegible]d take effect [illegible] July 1865, [illegible] to all the [illegible] or may become vested i[illegible] Statute 21 and 22 Vic., ca[illegible]

THE SCHEDULE ABOVE REFERRED TO.

| Date and Place of Marriage. | Names of the Husband and Wife. | Condition at the time of Marriage. | Rank or Profession. | Age. | Residence. | Names of the Fathers or Guardians. | Rank or Profession. | Signature of the Officiating Priest. | Signatures of the Witnesses. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

STATEMENT OF OBJECTS AND REASONS.

The object of the present measure is to enforce among the Parsee community the duties and obligations arising out of the marriage union. By a decision of her Majesty's Privy Council in 1856, it was ruled that the Supreme Court of Bombay on its ecclesiastical side, had no jurisdiction to entertain suits instituted by a Parsee wife for restitution of conjugal rights or for maintenance. It has been represented by a large number of Parsees, who from character and social position are regarded as leaders by their co-religionists, that bigamy has been introduced into their community, because, since the decision of the Privy Council, there has been no tribunal to vindicate the obligations of marriage, and none with authority to dissolve marriages on adequate cause being shown. Urgent petitions have therefore been addressed to the Government of India and to Her Majesty's Secretary of State for India, praying that, with respect to this most important relation of life, the Parsees may receive the sanction and protection of a legislative enactment.

The present measure renders bigamy by Parsees an offence, and subjects it to the penalties prescribed in the Penal Code. On the other hand it declares the grounds on which divorces may be granted. It gives jurisdiction for the vindication of obligations and duties arising out of marriages and for the dissolution of marriages, to the ancient institution of the Parsee Pancháyat. Appeal from the decision of the Pancháyats is allowed within a stated time to the High Courts of the respective Presidencies.

The measure has in substance been prepared by representatives of the Parsee community.

H. L. ANDERSON.

*The 16th January* 1865.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt of India,*
*Home Department (Legislative).*

## HOME DEPARTMENT.

No. 601 A.

*Fort William, the 12th January* 1865.

NOTIFICATIONS.

Mr. Frederick D'Olbert Bullock, appointed by the Secretary of State for India a Member of Her Majesty's Civil Service on the Bengal Establishment, reported this day his arrival at the Sand Heads on the 11th idem.

No. 602.

*The 20th January* 1865.

Dr. W. R. Rice, Civil Assistant Surgeon of Saugor, is transferred to Jubbulpore in the same capacity.

No. 784.

*The 21st January* 1865.

The under-mentioned Officers of the Oudh Commission are invested with the powers of a Magistrate, as defined in Section 22 of Act XXV of 1861, in the Province of Oudh :—

Mr. H. Gibson, Assistant Commissioner, 3rd Class.

Lieutenant G. E. Erskine, Ditto.

Moonshee Huzaree Lall, Extra Assistant Commissioner, 3rd Class.

No. 785.

*The 23rd January* 1865.

The Governor General in Council has been pleased to grant to the Reverend Henry Murray, Junior Chaplain on the Bengal Establishment, a furlough to Europe for two years, with effect from the date on which he may avail himself of the same.

No. 786.

The privilege leave of absence for one month, granted by the Lord Bishop of Calcutta to the Reverend John Clough, Chaplain of Rangoon, from the date on which he may avail himself of the same, is confirmed by the Governor General in Council.

No. 787.

*The 24th January* 1865.

The Reverend J. W. Young, Junior Chaplain on the Bengal Establishment, who returned to India on the 3rd instant per Steamer "Golconda," is appointed to be Chaplain of Nowgong and Nagode.

No. 789.

*The 25th January* 1865.

Surgeon J. Wilson, in civil medical charge of Jubbulpore, has obtained one month's preparatory leave from the 15th January, or such date as he may be relieved of his duties, to proceed to Calcutta, for the purpose of obtaining sick leave to Europe.

No. 791.

1st Class Native Doctor Hingun Khan, of the Bilaspore Dispensary, in the Central Provinces, has obtained nine months' leave on medical certificate, from such date as he may avail himself of the same.

No. 793.

Dr. J. P. Cromarty, Civil Surgeon, Tavoy, made over medical charge of the Jail and Civil Hospital of Tavoy to Native Doctor Shaik Khadim Hoossain, on the forenoon of the 21st December 1864.

No. 794.

The Governor General in Council directs the publication, for general information, of the following correspondence with the Secretary of State on the subject of extending the principle of the existing Civil Service Superannuation Rule to Military and Naval Officers in Civil employment, and also to Uncovenanted Officers holding gazetted appointments, and receiving such appointments direct from Government :—

Public Despatch from the Governor General of India in Council, to the Secretary of State,—No. 59, dated Simla, the 15th September 1864.

We have the honor to transmit the accompanying copy of a letter No. 446, dated the 21st of April, from the Government of Bombay, suggesting the expediency of extending the Civil Service Superannuation Rule, contained in Section 29 of the Furlough Regulations of 1855, to Military and Naval Officers in Civil employment, and also to Uncovenanted Officers.

2. This suggestion accords with the recommendation * made by the Committee appointed by the Lieutenant Governor of the Punjab at Lahore for the consideration of certain questions affecting the Civil Service of that Province, a copy of whose Report was forwarded to you with our Despatch No. 56, dated the 12th instant.

* "That the Supreme Government be moved to declare the retention of Civil appointments by Military Officers terminable after a certain number of years, as in the case of Civilians."

3. The proposal of the Bombay Government and of the Lahore Committee appears to us to be just, and likely, if adopted, to prove in every way beneficial to the public interests. There seems no reason for supposing that a Rule, which has undoubtedly proved satisfactory in regard to the Covenanted Civil Service, will be less beneficial when applied to other classes of Officers in Civil employment. Having regard, however, to the various ages at which Military and other Officers begin a career of Civil employment, we are disposed to recommend a Rule to the effect that they shall vacate office after a certain age, rather than to prescribe any fixed period of service. In this respect there is an obvious difference between them and Members of the Covenanted Civil Service. The former may enter upon Civil employment at any period of life, while the latter do so at a fixed and nearly uniform age. Hence a Rule, which suffices for the Covenanted Civil Service would operate very unequally, and in many instances be quite inoperative, with regard to other classes of public servants entitled under the Civil Administration.

4. We would rec[illegible] regend[illegible] before, that after the age of 55, [illegible] Chi[illegible]aval Officer in Civil employ[illegible] in [illegible]nted Civil Servant, sha[illegible] [illegible]ts office, or be permitted to [illegible] has held for five years, [illegible] make the Rule subject, a[illegible] case o[illegible]anted Civil Servants, to [illegible] exceptions [illegible] may be recommended [illegible] local Gove[illegible] and sanctioned by the Secret[illegible] of State.

Public Despatch from the Secretary of State, to the Governor General of India in Council,—(No. 90, dated the 9th December 1864.)

*Para.* 1.—I have considered in Council your letter dated 15th September (No. 59) 1864, recommending, with reference to a suggestion from the Government of Bombay, that the principle of the existing Civil Service Superannuation Rule be extended to Military and Naval Officers in Civil employment, and also to Uncovenanted Officers; and, in accordance with your recommendation, I authorize you to frame a Notification announcing that, after the age of 55, no Military or Naval Officer, nor any Uncovenanted Servant, shall be appointed to a new office, or be permitted to retain an office which he has held for five years.

2. This Rule will, like the corresponding Rule applicable to Civil Servants, be subject to special exceptions under the authority of the Secretary of State.

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Referring to the above correspondence with the Secretary of State, the Governor General in Council is pleased to pass the following Rule, which shall be held applicable to all Military and Naval Officers in Civil employment, and to Uncovenanted Officers holding gazetted appointments, and receiving such appointments direct from Government.

After the age of 55 years, no Military or Naval Officer, or Uncovenanted Servant, shall be appointed to a new office in Civil employment, or shall be permitted to retain any such office which he has held for five years and upwards, except in special cases, which are to be referred for the decision of the Right Hon'ble the Secretary of State. This Rule will be applicable to every Military and Naval Officer, and to every Uncovenanted Servant appointed to any Civil office after its promulgation, and to all other Military and Naval Officers and Uncovenanted Servants employed under the Civil Administration at the close of five years from the date of its promulgation.

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No. 822.

*The 25th January* 1865.

The Governor General in Council is pleased to invest the under-mentioned Officer in the Central Provinces with the powers of a Subordinate Magistrate of the 2nd Class, described in Chapter II, Section 22 of Act XXV of 1861 :—

Lieutenant A. Bloomfield, Officiating Assistant Commissioner.

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No. 823.

The Governor General in Council has been pleased to invest Lieutenant G. E. Fryer, Probationary Assistant Superintendent of Police, in British Burmah, and Officiating Assistant Commissioner, with the powers of a Subordinate Magistrate of the 2nd Class, as described in Section 22 of Act XXV of 1861.

The Governor General in Council has been pleased to invest Lieutenant C. W. Street, Officiating Deputy Commissioner, 4th Grade, in British Burmah, with the powers described in Section 1 of Act XV of 1862.

No. 825.

Moung Pai Hlan, Extra Assistant Commissioner, 3rd Grade, British Burmah, is invested with the powers of a Subordinate Magistrate of the 2nd Class, as described in Section 22 of Act XXV of 1861.

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No. 826.

Mr. G. E. Burr, Officiating Assistant Commissioner, 3rd Grade, in British Burmah, is invested with the powers of a "Magistrate of the District," described in Section 22 of Act XXV of 1861.

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No. 827.

The under-mentioned Officers in British Burmah are invested with the powers of a Subordinate Magistrate of the 1st Class, described in Section 22, Act XXV of 1861 :—

Moung Nga Gau, Extra Assistant Commissioner, 1st Grade.

Phuthootwuy, Extra Assistant Commissioner, 2nd Grade.

Moung Oon, Extra Assistant Commissioner, 1st Grade.

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No. 828.

*The 26th January* 1865.

Mr. Arthur Howell, Under Secretary to the Government of India, in the Financial Department, to be also an Under Secretary in the Home Department.

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No. 829.

The under-mentioned Officers of the Oudh Commission are invested with the powers of a Subordinate Magistrate of the 2nd Class, described in Section 22 of Act XXV of 1861, within the Province of Oudh :—

Mr. H. S. Boys, C. S., Officiating Assistant Commissioner, 3rd Grade.

Mr. A. R. Hutton, Extra Assistant Commissioner, 3rd Grade.

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No. 830.

Captain B. M. S. Lloyd, Deputy Commissioner of Toungoo, British Burmah, received charge of the Office of Superintendent of Police at that Station from Captain J. Duval, Superintendent, 1st Grade, on the afternoon of the 30th November 1864.

Captain J. Duval, Superintendent of Police, 1st Grade, is transferred to the Martaban District, in room of Captain Grove, Superintendent of Police, 2nd Grade, proceeding on sick leave to England.

Captain J. Duval reached Shwegyeen, and assumed charge of his Office from Captain Grove, on the forenoon of the 4th December 1864.

Captain W. G. Grove left Rangoon for Europe on the 15th December 1864.

Lieutenant C. Poole, Assistant Superintendent of Police, is transferred from the Bassein to the Toungoo District.

Lieutenant A. Cook, Superintendent of Police, 3rd Grade, is transferred from the Amherst to the Bassein District.

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No. 831.

Consequent on the departure to Europe on medical certificate of Captain Grove, Superintendent of Police, 2nd Grade, the following pro-

motions are made in the British Burmah Police, with effect from the 5th December 1864 :—

Lieutenant R. Houghton, Assistant Superintendent, to officiate as Superintendent of Police, 3rd Grade.

Mr. W. H. Patterson, 1st Class Inspector, to officiate as Assistant Superintendent.

No. 831 A.

Second Class Native Doctor Ramasawmy, attached to the Jail Hospital at Chindwarra, in the Central Provinces, is dismissed from the service of Government.

No. 831 B.

Dr. L. F. Dickson is appointed to the Medical charge of Chandah, in the Central Provinces, and Dr. H. A. Kidd to the Medical charge of Mundlah under the same Administration.

No. 832.

*The 27th January* 1865.

Mr. J. E. Hodgson, Sub-Assistant Revenue Surveyor, 1st Class, is transferred from the right to the left bank, Indus, Sindh Survey, from the 1st January 1865.

No. 833.

The Governor General in Council is pleased to direct the following additions to be made to List No. II, published under date the 29th September 1854, of parties authorized to send letters and Official *Gazettes bonâ fide* and *exclusively* on the public service, relating to the business of their respective Departments, without actual payment of postage, but only to the authorities hereinafter named, viz. :—

| | |
|---|---|
| Commissariat Agents and Non-Commissioned Officers in separate charge of Resting Camps. | To their immediate superior, or Quarter Master General, or Assistant or Deputy Quarter Master General, or to the Collectors of neighbouring districts or Commissariat Officers. |

R. N. Cust,

*Offg. Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

*Fort William, the 24th January* 1865.

Military.

No. 33.

Captain C. H. Clay, 2nd in Command and Squadron Officer, Deolee Irregular Force, reported his return to India on the 25th November 1864, and received charge of his duties from Captain S. Fellows on the 21st December 1864.

No. 34.

Lieutenant J. R. McK. Homfray, appointed in G. O. dated 11th instant, No. 5, to be Doing-duty Officer in the Malwa Bheel Corps, is transferred to the Bhopal Levy as Doing-duty Officer.

Political.

No. 70.

The Hon'ble D. F. McLeod, C. B., received charge of the Government of the Punjab and its Dependencies from the Hon'ble Sir Robert Montgomery, K. C. B., on the forenoon of the 10th instant.

No. 73.

Captain W. Bannerman, of the late 3rd Bombay N. I., is appointed to be Commissioner for laying down the boundary between the Central India Agency and the Rewah Kanta.

No. 83.

*The 27th January* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to recognize the appointment of Signor Fortunato Lamauroux as Consul at Calcutta for His Majesty the King of Italy.

General.

No. 179.

*The 24th January* 1865.

The under-mentioned Officers of the British Burmah Commission have passed the examination prescribed for Junior Officers of the Commission :—

*For the higher Standard.*

1. Mr. C. Phillips, Extra Assistant Commissioner.

*For the lower Standard.*

I. Lieutenant C. O'L. L. Prendergast, Assistant Commissioner, "with credit."

II. Mr. Roderick McLeod, Extra Assistant Commissioner, "with credit."

III. Lieutenant W. G. Hughes, Assistant Commissioner.

No. 180.

Assistant Surgeon S. T. Heard, M. D., is appointed to the Medical charge of the Nuggur Division in Mysore.

No. 184.

*The 25th January* 1865.

Lieutenant H. C. A. Szczepanski and Captain H. C. Menzies, appointed in G. O. dated 24th November, No. 1372, to be Assistant Commissioners in the Hyderabad Assigned Districts, received charge of their respective Offices on the forenoon of the 20th December 1864.

No. 185.

Lieutenant G. [illegible] ryer, [illegible] ating Assistant Commissioner in B[illegible] Bu[illegible] is appointed to be Assistant Secret[illegible] to t[illegible] ief Commissioner of British B[illegible]

Capta[illegible] Mayne [illegible] Commissioner, South-V[illegible] Berar, has [illegible] fifteen days' leave of absen[illegible] rom the date [illegible] ich he may avail himself [illegible] o proceed [illegible] bay on urgent private affai[illegible]

No. 189.

Assistant Surgeon G. N. Cheke, in medical charge of the Nipal Presidency, has obtained leave of absence for thirty-four days, from the date on which he may avail himself of it, to proceed to Calcutta, preparatory to applying for furlough to Europe.

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No. 205.

*The 26th January* 1865.

Captain E. B. Sladen, Assistant Commissioner, 1st Grade, in British Burmah, and Officiating Magistrate of Rangoon, is appointed to be Agent to the Chief Commissioner, British Burmah, at Mandalay.

The following arrangements are made in consequence :—

Lieutenant C. W. Street, Assistant Commissioner, 2nd Grade, to be Assistant Commissioner, 1st Grade.

Lieutenant W. W. Pemberton, Assistant Commissioner, 3rd Grade, to be Assistant Commissioner, 2nd Grade.

Captain Sladen made over charge of his Office to Mr. G. Hough, Registrar of the Court of Small Causes at Rangoon, on the afternoon of the 3rd January.

Mr. G. Hough is invested with the powers of a Magistrate in the district of Rangoon, under Section 22 of Act XXV of 1861.

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No. 212.

*The 27th January* 1865.

The services of Mr. C. U. Aitchison, Under Secretary to the Government of India in the Foreign Department, are placed at the disposal of the Punjab Government from the afternoon of the 26th instant.

Mr. J. W. S. Wyllie, Bombay Civil Service, on sick leave to Europe, is appointed Under Secretary to the Government of India in the Foreign Department.

Mr. A. Colvin, Officiating Under Secretary in the Home Department, is appointed to officiate as Under Secretary in the Foreign Department. Mr. Colvin received charge of his Office from Mr. Aitchison on the afternoon of the 26th instant.

H. M. DURAND, *Colonel,*
*Secy. to the Govt. of India.*

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## FINANCIAL DEPARTMENT.

No. 462.

*Fort William, the 25th January* 1865.

NOTIFICATIONS.

Under Section III of Act XXX of 1854, the Governor General in Council is pos[illegible]ed to direct that, from the date of [illegible] ceipt [illegible] is Notification at Rangoon, the [illegible] imported by sea into the Provinces wh[illegible] the administration of the Chief [illegible] British Burmah, shall be le[illegible] rates. [illegible] annas a maund [illegible]

No. [illegible]

Mr. S. G. Wyatt resu[illegible] charge of his [illegible] of First Assistant Au[illegible] General of Ind[illegible] the forenoon of the 19th J[illegible]ary 1865.

No. 493.

Mr. O. T. Cutter, Superintendent of Government Printing and in charge of the Military Orphan Press, resumed charge of his duties on the 21st instant.

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No. 496.

Mr. Pandoorung Gunoba received charge of the Office of Civil Pay Master, Bombay, from Mr. H. A. Mangles on the afternoon of the 13th instant.

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No. 498.

Mr. S. G. Wyatt, First Assistant Auditor General of India, is allowed leave of absence to Europe on medical certificate for two years, under Section 11 of the new Rules for leave of absence to Uncovenanted Servants.

Mr. W. E. Gordon, Deputy Auditor and Accountant General, Hyderabad, to officiate as First Assistant Auditor General of India, during the absence of Mr. S. G. Wyatt on leave, or until further orders.

Mr. E. S. Byrne, Chief Assistant in the Office of the Auditor General of India, to officiate as Deputy Auditor and Accountant General, Hyderabad, in the room of Mr. Gordon, or until further orders.

Mr. H. Ronaldson to officiate as Chief Assistant in the Office of the Auditor General of India during the absence of Mr. Byrne, or until further orders.

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No. 505.

*The 26th January* 1865.

Mr. R. W. Lodwick, of the Bombay Civil Service, and Civil Pay Master, Madras, having been allowed by the Government of Bombay to proceed on furlough for three years, made over charge of his Office to his Chief Assistant, Mr. W. Donald, on the afternoon of the 13th instant.

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No. 535.

Mr. H. A. Mangles, Civil Pay Master, Bombay, to officiate as Civil Pay Master and Deputy Auditor and Accountant General, British Burmah.

Mr. C. R. Kiernander, Chief Assistant Deputy Auditor and Accountant General, British Burmah, to officiate temporarily as Deputy Auditor and Accountant General, British Burmah, until the arrival of Mr. Mangles.

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No. 543.

*The 27th January* 1865.

Mr. Arthur Howell, who, under the orders of the 13th April 1864, No. 2676, has been officiating as Under Secretary to the Government of India, in the Financial Department, is confirmed in that appointment.

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 24th January* 1865.

*No.* 87 *of* 1865.—Major John Nelson Thomas, of the late 39th Native Infantry, is allowed furlough in India on private affairs for three years, from the 31st December 1864, under the old Regulations.

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*No.* 88 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 400 of the 16th ultimo, is published for general information :—

MILITARY. INDIA OFFICE,

No. 400. *London*, 16*th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—The under-mentioned Officers and Warrant Officers have been permitted to return to their duty, viz. :—

Major N. E. Boileau.
" S. B. Cookson.
Captain R. D. Griffin.
" J. P. Basevi.
Lieutenant C. H. Garbett.
" P. C. Dalmahoy.
" E. G. Clayton.
" G. R. Hennessy.
Assistant Surgeon A. R. Waghorn, per Steamer of 20th December.
Conductor J. Woodroffe.
" J. Parker.

2. In compliance with his request, Lieutenant Colonel J. T. Walker, Superintendent of the Trigonometrical Survey, has been allowed to return to his duty, proceeding viâ Bombay.

3. The under-mentioned Officers have been granted extensions of leave for the periods specified, viz :—

| | | |
|---|---|---|
| Colonel J. E. Landers, | 6 | months. |
| Captain T. N. Hunter, | 6 | " |
| " W. Davison, | 6 | " |
| " J. A. Grant, | 6 | " |
| Lieutenant E. F. Fortescue, | 6 | " |
| " R. B. Mackenzie, | 6 | " |
| " H. Cowper, | 6 | " |
| " H. A. Rooke, | 3 | " |
| " E. Y. Walcott, | 6 | " |
| Surgeon E. Campbell, | 3 | " |

4. The under-mentioned Officers have been permitted to retire from the service from the dates specified, viz. :—

Major T. Green, from the 10th October 1864.
Captain A. P. Mew, from the 24th October 1864.
Captain G. C. Bloomfield, from the 24th December 1863.

5. Hospital Steward W. Heffernan has also been permitted to retire from the service from the 29th September 1864.

---

*No.* 89 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Lieutenant Colonel Robert Napier Raikes, Bengal Infantry. | For three years, under the old Regulations. |

*No.* 90 *of* 1865.—The Government General Order No. 1069 of the 28th December 1864, appointing Lieutenant M. A. Rowlandson, of the Madras Staff Corps, Adjutant, 41st Madras Native Infantry, to be Quarter Master of the 5th Infantry, Punjab Irregular Force, is, at his own request, cancelled.

---

*No.* 91 of 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps, with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant Richard Melville Clifford, of the late 60th Regiment Native Infantry, 3rd Squadron Officer, 16th Bengal Cavalry. | 10th March 1863. |

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*No.* 92 *of* 1865.—Lieutenant Colonel S. R. Tickell, of the Bengal Staff Corps, retired from the service from the 15th instant, under Government General Order No. 28 of 1865, is allowed preparatory leave in extension* to that date.

* See Foreign Department Notification No. 145, dated 19th instant.

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*No.* 93 *of* 1865.—The under-mentioned Warrant Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Conductor Thomas Wilkins, of the Ordnance Commissariat Department. | For three years. |

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*No.* 94 *of* 1865.—The under-mentioned Officers having completed twenty years' service, six years of which were on permanent Staff employ, to be Majors from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Captain H. R. Wroughton ... | 20th Jan. 1865. |
| Captain (Brevet Major) H. R. Garden ... | Ditto. |
| Captain J. Williamson ... | Ditto. |

---

*No.* 95 *of* 1865.—The undermentioned Officers having completed twelve years' service, four years of which were on permanent Staff employ, to be Captains, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:—

*Bengal Staff Corps.*

| | |
|---|---|
| Lieutenant [illegible] B. Stain[illegible] ... | 20th Jan. 1865. |
| Lieutenant [illegible]ulloch [illegible] ... | Ditto. |

[illegible] *nary* 1865.

[illegible] ice [illegible]er-mentioned Officer has [illegible] his [illegible] England :—

| | |
|---|---|
| [illegible]or (Brevet C[illegible] J. M. [illegible]ret[illegible] F. Tytler, [illegible] of the Bengal Staff Cor[illegible] | 11th Jan. 1865. |

*Date of arrival at Fort William.*

*No.* 97 *of* 1865.—The under-mentioned Soldiers of Her Majesty's service are permitted to reside and draw their pay in India as out-pensioners of Chelsea Hospital, according to the 23rd clause of the Royal Warrant of the 1st July 1848, pending a reference to the Home Authorities as to the amount of their pensions :—

Gunner William Turnbull, of the E. Battery, F. Brigade, Royal Artillery.

Corporal William Hexter, of the 3rd Battalion Rifle Brigade.

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*No.* 98 *of* 1865.—Captain A. H. Prinsep, of the late 4th European Light Cavalry, 3rd Squadron Officer, 4th Punjab Cavalry, is, at his own request, permitted to resign his appointment in the Punjab Irregular Force, and his services are accordingly placed at the disposal of His Excellency the Commander-in-Chief.

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*No.* 99 *of* 1865.—Lieutenant J. W. Grant, of the late 42nd Native Infantry, Doing-duty Officer, 23rd (Punjab) Regiment, Native Infantry, (Pioneers) is permitted to resign the service, subject to Her Majesty's approval.

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*No.* 100 *of* 1865.—The discharge with pension of Sergeant Major T. Burrows, of the 15th Regiment Native Infantry, announced in Government General Order No. 1053 of the 20th December 1864, is cancelled as a special case.

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*No.* 101 *of* 1865.—It has been brought to the notice of Government that Officers returning to England have been sometimes subjected to much inconvenience owing to their last pay certificates having been withheld in consequence of the existence of unadjusted retrenchments against them.

It is accordingly notified, for general information and guidance, that Officers embarking for England are invariably to be furnished with a form of certificate which will enable the Home Authorities to issue to them the pay and allowances to which they may be entitled.

Any amount which may remain unadjusted in India should be distinctly shown in the certificate, in order that it may be duly recovered in England, unless cause be shown to the contrary.

This order is applicable to the three Presidencies.

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*The 26th January* 1865.

*No.* 102 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps, with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant Edward [illegible] of the late 33rd [illegible] Assistant Com[illegible] jab. | [illegible] January [illegible]2. |
| Lieutenant Lindsay [illegible] deLorentz Daniell [illegible] 14th Native Infa[illegible] Master, 1st Sikh In[illegible] | 30th [illegible]mber 186[illegible] |
| Lieutenant James Barry Slater, of the late 22nd Native Infantry, Adjutant 2nd Sikh Infantry. | 28th March 1862. |

---

*No.* 103 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate *viâ* Bombay :—

| | |
|---|---|
| Surgeon Major Charles Archer, M. D., of the Medical Department ... | For 20 months, under the new Regulations, from the date of his leaving the limits of the Bengal Presidency. |

*No.* 104 *of* 1865.—Ensign F. Knowles, of Her Majesty's 19th Foot, 3rd Squadron Officer, 2nd Bengal Cavalry, admitted to the Bengal Staff Corps by Government General Order No. 77 of the 19th instant, will rank as Lieutenant in that Corps, under the operation of paragraph 84 of Government General Order No. 332 of 1861, with effect from the 4th September 1863, subject to Her Majesty's approval.

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*No.* 105 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

PUNJAB IRREGULAR FORCE.

*5th Infantry.*

Lieutenant C. E. Stewart, Bengal Staff Corps, Wing Officer, to be 2nd in Command and Wing Officer, vice Major H. Hayley, proceeding to Europe on sick leave, who vacates the appointment under the operation of paragraph 20 of the new furlough regulations.

Lieutenant A. W. C. Read, 51st Foot, Adjutant, to be Wing Officer, vice Lieutenant Stewart.

Lieutenant R. C. S. C. Tytler, General List, Infantry, Doing-duty Officer, to be Adjutant, vice Lieutenant Read.

*5th Goorkha Regiment.*

Lieutenant J. M. Sym, late 58th Native Infantry, Quarter Master, to be Adjutant, vice Lieutenant J. S. Oliphant, deceased.

Lieutenant A. P. Broome, General List, Infantry, Doing-duty Officer, to be Quarter Master, vice Lieutenant Sym.

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*No.* 106 *of* 1865.—The under-mentioned Officer having completed five years' service as Major and Brevet Lieutenant Colonel, and as Regimental Lieutenant Colonel, to be Colonel in the Army, from the date specified opposite to his name, under the operation of Clauses 8 and 9 of the Royal Warrant dated 31st January 1859, published in Government General Order No. 740, dated 20th May 1859, subject to Her Majesty's approval.

BREVET.

*To be Colonel in the Army.*

| | |
|---|---|
| Lieutenant Colonel George Samuel Montgomery, of the Bombay Infantry. | 20th December 1864. |

*No.* 107 *of* 1865.—The following promotions are made in the under-mentioned Corps of the Native Army:—

| Corps. | Rank and Names. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| 19th (The Punjab) Regt. N. I. | Subadar Sobah Singh ... | Subadar Major | 9th Dec. 1864 | Sirbaz Khan, resigned. |
| 41st (The Gwalior) Regt. N. I. | Havildar Sirdar Singh ... | Jemadar ... | 1st Oct. ,, | Dyal Singh, invalided. |

*No.* 108 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

*Judge Advocate General's Department.*

Captain J. C. Horne, of the Bengal Staff Corps, to be a Deputy Judge Advocate General, to complete the Establishment.

*No.* 109 *of* 1865.—Lieutenant W. L. P. Drummond, of the Bengal Staff Corps, 2nd Squadron Officer, 11th Bengal Cavalry, is allowed leave of absence from the 25th December 1864, to date of embarkation to visit Bombay, preparatory to proceeding to Europe on medical certificate.

*No.* 110 *of* 1865.—The following order issued by the Government of Bombay is confirmed:—

*No.* 30, *dated* 12*th January* 1865.—Granting leave of absence to Europe on medical certificate to Lieutenant W. L. P. Drummond, of the Bengal Staff Corps ... } For 20 months.

*The* 27*th January* 1865.

*No.* 111 *of* 1865.—The following promotion by Brevet is made under the operation of G. G. O. No. 632 of the 4th August 1864, subject to Her Majesty's approval:—

*Brevet.*

| Corps. | Rank and Name. | Date from which entitled to the rank of Major. |
|---|---|---|
| Late 22nd N. Infy. | Brevet Capt. Frederick Duffin. | 29th Dec. 1864. |

*No.* 112 *of* 1865.—The under-mentioned Officers having completed 26 years' service, eight years of which were on permanent staff employ, to be Lieutenant Colonels, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:—

*Bengal Staff Corps.*

Major O. Hamilton ... 24th January 1865.
Major A. H. Ternan .. 24th ,,

*No.* 113 *of* 1865.—The under-mentioned Student of the Lahore Medical College, having passed the prescribed examination, is admitted into the service as Native Doctor, with effect from the 7th instant, and placed at the disposal of the Principal Inspector General, Medical Department:—

Wahabul Shair.

*No.* 114 *of* 1865.—Surgeon John Squire, of the Medical Department, is permitted to proceed to sea, Singapore, and Malacca, on medical certificate, and to be absent from Bengal on that account for three months, from the 8th February 1865, under the old Regulations.

H. W. Norman, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

Establishment.

No. 17.

*Fort William, the* 24*th January* 1865.

Notifications.

Notification No. 14 of 17th instant, granting 6 months' leave of absence on private affairs to Sergeant P. Heyward, Accountant, 3rd grade, attached to the Office of Accountant General, Public Works Department, is cancelled at his own request.

R. Strachey, *Colonel,* R. E.
*Secy. to the Govt. of India.*

No. 18.

*The* 26*th January* 1865.

Mr. W. Hutton, Overseer, 2nd grade, is transferred from Bengal to the Lighthouses Division, with effect from the 4th January 1865.

No. 19.

Mr. R. E. Dobbs, Executive Engineer, Bangalore Division, is granted leave of absence on medical certificate from the 2nd to 15th December 1864. He resumed charge of his Office on the 16th idem.

No. 2[illegible]

Mr. C. Nut[illegible] Officiat[illegible] Controller of Public Works Accou[illegible] Mys[illegible] Assumed charge of his duties [illegible] Dec[illegible] last.

[illegible] Judonath [illegible]jee, Accountant, 4th gra[illegible] Central Provi[illegible] granted 2 months' leave of a[illegible]ence on medic[illegible]tificate, in addition to the [illegible]months granted [illegible] Public Works Notification No. 192 of 20[illegible] uly last.

No. 22.

Lieutenant W. P. Tomkins, R. E., Assistant Engineer, 1st Class, British Burmah, is temporarily attached to the Office of the Chief Engineer, British Burmah, with effect from 7th January 1865.

E. C. S. WILLIAMS, *Captain*, R. E.
*for Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### SHERIFF'S OFFICE.

Notice is hereby given that the Criminal Sessions of the High Court of Judicature at Fort William in Bengal in its Ordinary Original Jurisdiction for the year 1865, will be held on the undermentioned dates, viz. :—

| | | | | |
|---|---|---|---|---|
| 1st | Criminal Sessions, | | Thursday, | 19th January. |
| 2nd | do. | do. | Friday, | 10th March. |
| 3rd | do. | do. | Tuesday, | 25th April. |
| 4th | do. | do. | Monday, | 5th June. |
| 5th | do. | do. | Tuesday, | 18th July. |
| 6th | do. | do. | Monday, | 14th August. |
| 7th | do. | do. | Thursday, | 14th September. |
| 8th | do. | do. | Friday, | 24th November. |

H. DUNDAS,
*Sheriff.*

12*th January* 1865.

### WANTED.

An Auditor for the current official year's Accounts of the Medical Retiring Fund. Remuneration Rupees 300.

R. A. FINK,
*Officiating Secretary.*

BENGAL MEDL. RETG. FUND,
*The* 20*th January* 1865.

### TO TIMBER MERCHANTS AND CONTRACTORS, &c.

*Oudh Forest Department.*

A sale of Sâl logs (about 100,000 cubic feet) cut in 1862-63, will take place at noon on the 2nd of March 1865, at Ghuttea Ghaut, on the Sarda, and afterwards at Dhunara Ghaut, two miles further down stream, near the towns of Madho Sunda, Sherepore, and Poorunpore, in the Shajehanpore district; upset price 8 annas per cubic foot. The timber will be sold in both large and small quantities. The timber can be floated to Byram Ghaut for 3 annas a cubic foot, or, after land carriage of some twenty miles, can be floated down the Kumhout Nuddee to the Ganges, then to Cawnpore, Allahabad, Benares, &c. Estimated cost from Ghauts to Cawnpore, 4½ annas per cubic foot. Tenders for quantities over 1,000 cubic feet, at 8 annas per cubic foot, for cash payment, will be accepted up to date of sale. Terms of sale can be had on application to the undersigned.

E. S. WOOD, *Captain,*
*Offg. Consrvr., Oudh Forests.*

CAMP, KYREEGURH FOREST,
*viâ* POORUNPORE,
ZILLAH SHAJEHANPORE.

### NOTICE.

Notice is hereby given that Privilege Transfer Receipts drawn on other Treasuries from this date, (with the exception of Calcutta, for which a different series of Nos. is used,) will bear a higher No. than hitherto used. Commencing with No. 19251. The No. hitherto used was 18600.

C. CASE,
*Assistant Commissioner.*

FYZABAD TREASURY,
17*th January* 1865.

## REPORT BY THE DIRECTORS OF THE BANK OF BENGAL,

*For Half-Year ending* 31*st December* 1864.

The transactions of the Bank for half-year ended 30th June last closed with a Cash Balance of two crores and forty-three lakhs, and with the rates of interest ranging from 6½ to 9 per cent. on advances somewhat in excess of two crores and sixteen lakhs.

Throughout July, the money market continued easy without any material change in the Bank's position. From the middle of that month, however, a marked improvement in the import market developed itself, and at the same time dealers showed a disposition to make provision for anticipated requirements in connection with the leading staple exports.

The Bank's advances steadily rose, and by the middle of August had reached two crores and eighty-two lakhs, when the Directors raised the rates of Interest and Discount two per cent. all round. Towards the end of September, the rates were again raised one per cent., when the advances touched nearly three crores, and the Cash Balance had gone down sixty-two lakhs as compared with the amount on hand at the close of the preceding half-year.

The high rates of interest ruling in this market in contrast with those in Bombay, attracted specie from that Presidency, and as large remittances were at the same time being imported from England, the Bank's reserve gradually increased towards the latter part of October. Before the close of November it reached upwards of three crores.

Early in Octobe[illegible] however, Calcutta was overtaken by a cyclone which proved disastrous to the shipping in the river, and as continuous advices of an impending monetary pressure in England, coupled with a great fall in the staple art[illegible]es of export, reached India by each successive Mail, the local trade for a time was severely checked.

The available surplus [illegible] consequence thrown on the market, and money out of doors ruled under the Bank' rates. [illegible] order [illegible]rest the downward movement in the Bank's advances, the Directors lowered the rates [illegible]ch meeti[illegible]or three weeks in succession one per cent. all round. From a minimum point of [illegible] cr[illegible] and twelv[illegible]hs at the end of November, the Bank's advances steadily and gradually increased [illegible] close of the [illegible]ear ending on 31st December last, when the advances and Cash Balances at [illegible]fice and Branc[illegible] relatively stood at two crores and ninety-five lakhs and two crores and sixty-s[illegible]hs.

The result of the [illegible] year's transaction [illegible] shows a net profit of Rs. 10,80,548-0-5. After setting aside Rs. 1,07,356-1-2 to [illegible]meet the interest on the subscriptions to new stock paid by Proprietors

since the preceding June, the Directors have appropriated Rs. 9,38,517-15-3, in payment of a dividend at the rate of ten per cent. per annum free of Income Tax, on the increased capital of Rs. 1,87,70,358, and have transferred a balance of Rs. 34,674 to Reserve Fund.

Both stocks are now consolidated, and amount to two crores and twenty lakhs, which, from henceforth, will participate equally in the dividends earned.

At 30th June the Bank's investments in the 5½ and 5 per cent. Loans were valued at the then market rate. Early in July, large quantities of these securities from Bombay and London were transferred to this market for realization, and prices receded heavily. With an easier market a rally took place during October and November, but there is again an entire absence of animation in the market. Following the course hitherto adopted, the Directors have equalized the investments with the market value of the day, which is nearly six per cent. under that of the preceding six months. The reserve Fund has been debited with a corresponding amount to meet the depreciation.

The Directors have pleasure in stating that the losses incurred at the Branches since their establishment are very trifling, and that their progress, as a whole, has more than realized their expectations.

With a view to facilitate the circulation of British and Australian Sovereigns and Half-Sovereigns of current weight throughout British India, the Governor General in Council, by Order of 23rd November last, was pleased to direct that they should be received at all the Treasuries in payment of sums due to Government, at the equivalent of ten and five Rupees respectively.

Under Notification of same date, the Governor General in Council directed that Government Currency Notes should be issued at the several Agencies and Circles of the Paper Currency in exchange for Sovereigns and Half-Sovereigns of current weight at the rates of ten and five Rupees respectively, to an extent not exceeding one-fourth of the total issues represented by Coin and Bullion at each Circle.

Although the amount tendered through the General Treasury at the Bank in payment of Government dues has been very limited, the sum taken over the counter in the Banking Department since 1st December is nearly eight lakhs (£80,000). Of this amount, upwards of four lakhs (£40,000) have been told out to be public in exchange for Notes and other demands. The balance is still available at Head Office and Branches.

The publication of the Government Orders had the effect of liberating most of the current gold coins held by importers, when it became apparent to them that they could not calculate on realising beyond the equivalent at which Sovereigns were received and issued by the Bank; but the Directors are not prepared to say that, when present supplies are exhausted, the Notification will be the means of encouraging the importation of gold in larger quantities than heretofore.

It is, however, undoubted that, as a tentative measure, the introduction of gold under the Government Notification has been so far successful, and proved acceptable to the public generally.

The supplies received have been sufficient to maintain the market value of the Sovereign in Calcutta at an almost unvarying quotation of ten Rupees. When the supply at the Bank was temporarily exhausted, and in exceptional cases for small amounts, a trifling premium has, it is understood, been realised. At most of the up-country Branches the market value has also been steadily quoted at ten Rupees, while the highest reported rate is one anna and six pies premium.

The provison by which one-fourth of the total issues of Currency Notes represented by Coin or Bullion may be held in gold will, the Directors think, prove to be of great importance, especially in times of pressure.

The combined effect of both orders will, it is hoped, gradually familiarise the native population with the use of Sovereigns as a circulating medium, and pave the way for the introduction of a more enlarged measure hereafter.

*Statement of the Affairs of the* BANK OF BENGAL *for the Half-year ending* 31*st December* 1864.

| LIABILITIES. | | Rs. | A. | P. |
|---|---|---|---|---|
| Proprietors' Capital paid up ... ... | | 1,87,70,358 | 15 | 2 |
| Subscriptions to New Stock ... ... | | 32,29,641 | 0 | 10 |
| Reserve Fund ... .. ... ... | | 17,67,132 | 0 | 4 |
| General Treasury Balance at Head Office ... ... | Rs. 71,70,346 0 8 | | | |
| General Treasury Balance at Branches ... | „ 85,62,180 3 3 | | | |
| | | 1,57,32,526 | 3 | 11 |
| Other Deposits at Head Office and Branches ... ... ... ... | | 2,00,86,685 | 1 | 11 |
| Bank Post Bills, &c. ... ... ... | | 3,19,174 | 15 | 10 |
| Bank Notes outstanding ... ... | | 3,80,090 | 0 | 0 |
| Sundries .. ... ... ... | | 12,04,065 | 13 | 10 |
| Total, Rs. ... | | 6,14,89,674 | 3 | 10 |

| ASSETS. | Rs. | A. | P. |
|---|---|---|---|
| Government Securities, Investment No. 1 | 31,37,210 | 12 | 0 |
| Loans on Government Securities at Head Office and Branches ... ... ... | 1,60,04,008 | 0 | 0 |
| Accounts of Credit on Government Securities at Head Office and Branches... | 17,44,268 | 10 | 0 |
| Mercantile Bills discounted at Head Office and Branches ... ... ... | 1,18,32,186 | 15 | 5 |
| Dead Stock ... ... ... ... | 3,75,263 | 12 | 9 |
| Stamps ... ... ... ... | 10,243 | 12 | 0 |
| Balances with other Banks ... ... | 6,69,970 | 8 | 9 |
| Sundries ... ... ... ... ... | 8,07,211 | 9 | 1 |
| | 3,45,80,364 | 0 | 0 |
| Treasury Reserve in Coin at Head Office ... ... ... ... | 1,70,346 | 0 | 8 |
| Cash and Currency Notes [illegible] Office [illegible] Rs. 1,47,262 | | 2 | 4 |
| Cash and Currency Notes [illegible] Balance at [illegible]ches ... „ 75,91,70[illegible] | | 0 | 10 |
| [illegible] ... | 2,67,38,964 | 3 | 2 |
| [illegible] ... | 6,14,89,674 | 3 | 10 |

## PROFIT AND LOSS ACCOUNT.

| RECEIPTS. | | Rs. As. P. | Rs. As. P. |
|---|---|---|---|
| Amount received in Discount, Interest, and Commission at Head Office and Branches | | ..... | 13,50,813 11 4 |
| **DISBURSEMENTS.** | | | |
| Establishment at Head Office and Branches ... ... ... ... ... | | 1,82,342 11 3 | |
| Pensions ... ... ... ... ... ... ... ... | | 2,900 0 0 | |
| Directors' Fees ... ... ... ... ... ... ... ... | | 5,225 0 0 | |
| Law Charges ... ... ... ... ... ... ... ... | | 941 14 0 | |
| Contingencies.—Stationery ... ... ... ... | 5,838 4 9 | | |
| Lighting ... ... ... ... | 1,503 15 6 | | |
| Printing ... ... .. ... | 6,311 4 7 | | |
| Advertisements ... ... ... ... | 5,331 10 6 | | |
| Office Rent, Assessments, and Miscellaneous Charges, at Head Office and Branches ... | 36,827 2 3 | | |
| Cheque and Pass Books ... ... ... | 868 0 10 | | |
| Allowance for Wear and Tear of Bank Property | 7,064 13 2 | | |
| | | 63,745 3 7 | |
| | | | 2,55,154 12 10 |
| | | | 10,95,658 14 6 |
| **DEDUCT.** | | | |
| Income Tax ... ... ... ... ... ... ... ... | | ... ... ... | 15,110 14 1 |
| Net Profit, Rupees ... ... | | ... ... ... | 10,80,548 0 5 |
| Amount of Dividend declared at 10 per cent. per annum ... ... ... | | 9,38,517 15 3 | |
| Interest due on Subscriptions to New Stock paid in after 30th June last ... ... | | 1,07,356 1 2 | |
| Surplus transferred to Credit of Reserve Fund ... ... ... ... | | 34,674 0 0 | |
| | | | 10,80,548 0 5 |
| **RESERVE FUND.** | | | |
| Reserve Fund at 30th June 1864 ... ... ... ... ... ... | | ... ... ... | 18,92,273 7 0 |
| By surplus at Credit of Profit and Loss Account after providing for a Dividend at the rate of 10 per cent. per annum ... ... ... ... .. | | ... ... ... | 34,674 0 0 |
| | | | 19,26,947 7 0 |
| To amount transferred to the Credit of Government Securities to meet depreciation in Investments ... ... ... ... ... ... ... | | 1,29,846 12 0 | |
| To Honorarium to the late Officiating Secretary and Treasurer ... ... ... | | 10,000 0 0 | |
| To Gratuity to the late Deputy Khazanchee and others ... ... ... | | 3,028 0 0 | |
| To old outstanding Bank of Bengal Notes paid during the half-year ... ... | | 16,940 10 8 | |
| | | | 1,59,815 6 8 |
| Balance of Reserve Fund ... ... | | | 17,67,132 0 4 |

*Board of Directors (in the Order of Rotation).*

Govt. Directors { E. H. LUSHINGTON, Esq., Financial Secretary to the Government of India, President of the Board.
ARTHUR GROTE, Esq., First Member of the Board of Revenue.
R. P. HARRISON, Esq., Accountant and Auditor General to the Government of India. }

HENRY DUNDAS, Esq., of Messrs. Shand, Fairlie and Co.
JAMES ROME, Esq., of Messrs. Crooke, Rome and Co.
Hon'ble JOHN N. BULLEN, of Messrs. Kettlewell, Bullen and Co.
JOHN SKINNER, Esq., of Messrs. Jardine, Skinner and Co.
JOHN COWIE, Esq., of Messrs. Colvin, Cowie and Co.
STEUART GLADSTONE, Esq., of Messrs. Gillanders, Arbuthnot and Co.

By Order of the Board.

GEO. DICKSON,

*Secretary and Treasurer.*

BANK OF BENGAL,
*Calcutta, the 19th January 1865.*

*STATEMENT of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 19th January 1865.*

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent. of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 4½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount brought forward from Statement dated 11th January 1865 ... ... | 53,000 | 300 | 25,87,400 | 22,89,400 | 95,85,000 | 66,62,600 | 32,10,900 | 4,74,75,400 | 2,36,23,000 | 17,600 | 16,000 | 9,55,20,600 |
| ADD— | | | | | | | | | | | | |
| Amount enfaced at Madras, as per Registers received up to date... | ... | ... | ... | ... | 43,400 | ... | ... | ... | ... | ... | ... | 43,400 |
| Amount enfaced at Bombay, as per ditto ditto ditto ... | ... | ... | ... | 500 | ... | ... | ... | ... | 2,00,000 | ... | ... | 2,00,500 |
| Amount enfaced [illegible] to date. ... ... | ... | ... | ... | 500 | 3,400 | 1,200 | 6,500 | 58,500 | 61,500 | ... | ... | 1,31,600 |
| Total ... | 53,000 | 300 | 25,87,400 | 22,90,400 | 96,31,800 | 66,63,800 | 32,17,400 | 4,75,33,900 | 2,38,84,500 | 17,600 | 16,000 | 9,58,96,100 |
| DED[illegible] | | | | | | | | | | | | |
| Amount [illegible]ed from the London Books, as per Registers received up to date ... | ... | ... | 17,300 | 9,500 | 26,100 | 83,000 | ... | 84,000 | 1,80,000 | ... | ... | 3,99,900 |
| Total ... | 53,000 | 300 | 25,70,100 | 22,80,900 | 96,05,700 | 65,80,800 | 32,17,400 | 4,74,49,900 | 2,37,04,500 | 17,600 | 16,000 | 9,54,96,200 |

FORT WILLIAM;
LOAN OFFICE,
*The 25th January* 1865.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

## No. 2.

## COMMISSARIAT NOTICE.

Sealed tenders are invited for supply of Beef and Mutton to Troops at Fort William and Dum-Dum, on the March and in Camp, at various distances from the Presidency, for fourteen months, from 1st March next.

Form of tender to be had at No. 6, Park Street, where tenders will be received up to 2 P. M. of the 6th, and opened at noon on the 7th February.

Separate tenders required for each Station.

Earnest deposit to be in Government Promissory Notes, or Bank of Bengal Receipt.

### SCHEDULE.

| Names of Articles. | Period for which contract is invited. | Aggregate quantity probably deliverable during the contract. | Where and to whom the articles are deliverable. | Instalments deliverable and specific time of delivery. | Amount of earnest money to be lodged with tender. | Security to be deposited on acceptance of tender by the Commissary General. | Quality of supply. |
|---|---|---|---|---|---|---|---|
| | | lbs. | | | Rupees. | Rupees. | |
| *Fort William.* | From 1st March 1865 to 30th April 1866. | | Ration grounds and Hospitals to Commanding and Medical Officers. | Half an hour before sunrise daily, according to daily Indents, &c. | | | Best grass fed. |
| Beef ... ... ... | | 4,28,500 | | | 3,000 | 10,000 | |
| Mutton ... ... ... | | 71,500 | | | | | |
| *Dum-Dum.* | | | | | | | |
| Beef ... ... ... | | 3,00,000 | | | 3,000 | 10,000 | |
| Mutton ... ... ... | | 50,000 | | | | | |

FORT WILLIAM,
EXE. COMMISSARIAT OFFICE;
*The 23rd January* 1865.

G. S. MACBEAN, *Major,*
*Assistant Commissary General.*

## NOTICE.

Whereas it appears to His Excellency the Governor General in Council that land is required to be taken up by Government at the public expense for the public purpose, viz., for the formation of an encampment for Troops, on the junction of the Allahabad and Jounpore roads; the former running north and south, and the latter east and west; it is hereby notified that for the above purpose the following land will be appropriated [illegible]

*2nd.*—A piece of land 4[illegible] length, and 400 in breadth, situated between the villages Narainpore and Paiajeepore, in the [illegible]rgunnah and District of Sultanpore.

This declaration is made under [illegible] II, Act VI of 1857.

J. [illegible]EID,
*Secy. to the Chief Com[illegible]., Oudh.*

## NOTIFICATION.

Lost or Stolen, a Currency Note for (10) ten Rupees, No. 11801, issued at Allahabad, and bearing date May 8, 1862.

Notice is hereby given to all Officers in charge of Treasuries and all Banks, that payment of the above Note is stopped, and it is requested that the undersigned may be informed of any attempt to cash it.

T. ELLIOT,
*Deputy Collector*
*in charge of Treasury.*

GORUCKPOOR,
COLLECTOR'S OFFICE,
*The 18th January* 1865.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military*

No. 4.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, JANUARY 28, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

*Government of India.*

PULIC WOKS DEPARTMENT.

### Papers relating to Grants for Public Works to Bombay.

FROM LIEUT. COLONEL M. K. KENNEDY, R. E., Secy. to Govt. of Bombay, in the P. W. Dept., to Secy. to Govt. of India, P. W. Dept.,—No. 222, dated 10th February 1864.

I have the honor to acknowledge the receipt of your Circular No. 63, dated 28th December 1863, in which an allotment is made to this Presidency of 62 lakhs of Rupees for 1864-65, for Imperial Public Works other than new Military works for the accommodation for troops, for which latter separate provision will be made after the necessary information has been obtained.

2. In reply I am directed to submit, for the information of His Excellency the Governor General of India in Council, the accompanying list marked A, of works now actually in progress, for the efficient prosecution of which the sums specified in the list are necessary, and if provided at all, must be met from imperial sources.

3. From this list all original Military works have been excluded, and they are exhibited in a separate list marked B, which is also attached to this letter; for these, as is remarked in your 3rd para., separate provision must be made, the

4. The amount required for the [illegible] included in list A is Rs. 46,49,253.

5. To this must be added the sums [illegible] for the works enumerated in list marked [illegible] which, although they are being carried out by [illegible]ernment, are essentially imperial in their character.

* * * * * [illegible]

10. Adding the sums required for these works to those in the list marked A, the total amount required is raised to ... ... Rs. 63,44,720

| | |
|---|---|
| Add Reserve ... ... | 6,00,000 |
| Establishment ... ... | 15,00,000 |
| Repairs ... ... ... | 15,00,000 |
| Total ... | Rs. 99,44,720 |

11. This sum, for carrying on merely those necessary public works which are actually in progress, without any provision for the very numerous new works which are daily pressed on the attention of this Government, is so far beyond the amount which the Government of India has allotted to this Presidency in your Circular letter under reply, that His Excellency the Governor in Council, feeling the impossibility of making any satisfactory selection from the list of undertakings which are all alike of an urgent character, considers it would be futile, and a mere waste of labor to submit a Budget for them in the usual detailed form; and I am therefore directed to request that if it should be found impossible to increase the assignment which it is proposed to make to this Presidency, the Government of India will be good enough to indicate which particular works should be abandoned or deferred. A Budget for the remaining works will then be prepared and submitted in the usual form.

12. The imperial assignment made to this Presidency for the current year amounts to 66½ lakhs, or to 4½ lakhs in excess of the allotment for the ensuing year; and the demand for military accommodation and for works of public improvement is so great, that it became necessary for this Government to submit supplementary estimates to the extent of 48 additional lakhs. If, therefore, the smaller sum which has now been indicated as the probable maximum amount that will be available

in 1864-65 is adhered to, great loss must ensue, as well as stoppage of much material progress.

13. If it be objected that the demands of this Government are either large in themselves, or proportionately so in respect to the requirements of other Governments or Administrations, it may be explained that there are several sufficient reasons to account for this circumstance.

1st.—The commercial and agricultural prosperity of this country is such, and its rate of development has of late years been so rapid, that the demands for increased facilities of communication and for reproductive works are very rgeat, and must be met.

2nd.—The price of all materials and labor has so greatly increased, that 60 lakhs of Rupees will not now do more than that which 30 or 40 lakhs would have effected three years ago; so that to allot no more now than was allotted last year, or the year before, or the year before that, is in fact to retrograde in the face of the plainest indications of the necessity for progress.

3rd.—This Presidency has to meet from the imperial grants accorded to it, extraordinary expenses—such as the defence of Bombay Harbour, the harbour works of Kurrachee and Karwar (Sudashewghur)—all of which are of a special and imperial character; while the aggregate requirement for these works forms a very heavy item of the total sum wanted, amounting, as shown in the list A I. now submitted, to no less than nearly 17 lakhs.

14. His Excellency in Council, therefore, trusts that this Government will not be restricted to the totally inadequate sum which has been assigned in your letter under reply, and that at the very least such means may be placed at his disposal as will enable him, independent of all necessary new works, to carry on with such expedition as is indispensable for proper economy all those useful and necessary works which are set forth in lists A and A I. as being now in progress.

15. To enable him to do this, as well as to maintain the necessary establishments, and preserve in good and efficient order completed works already in existence, an assignment of say 99½ lakhs is absolutely necessary; and to this His Excellency in Council trusts at least 20 lakhs for new works other than Military works will be added from the balances which are believed to be at the disposal of the Government of India for the improvement of the country generally.

16. With regard to the large sum of Rs. 22,58,893 required for Military works in list B, of which Rs. 7,79,943 are for works actually in progress, it is impossible to do more than repeat what has been so often stated, that the large body of European troops now under the Commander-in-Chief of the Presidency has, except at a very few stations, had no adequate provisions for permanent accommodation made for it, such as has been made for the European Garrisons of almost every part of Northern India, Oudh, and the Punjab.

17. At every station under this Presidency, some, and at many all the European Troops are living in barracks which have either been long since condemned, or are incomplete in many of the adjuncts deemed essentially necessary by Military and Medical authorities in these days. Except at very few stations, nothing has been done to provide the European Troops of the Bombay Army with good, permanent, and complete barracks in the style almost universally allowed in the Punjab and Northern India. For evidence on this point, the Hon'ble the Governor in Council would refer to the reports of His Excellency the present Commander-in-Chief of the Bombay Army, which are in great detail, and refer to nearly every station in this Presidency, and are drawn up by a general officer who is equally well acquainted with what has been done elsewhere, and what is wanting here.

18. I am to add in conclusion that with the exception of assistance towards the cost of maintenance of communications, no help can be looked for to Local Funds in the way of supplementing imperial grants for any of the works enumerated in the lists now submitted. All local funds' balances, and probable collections, are pledged for several years for the completion of local works already in hand, or to be speedily undertaken.

19. I am, however, directed to report, that strenous exertions have been made by this Government to prevent the local works of this Presidency being such a burden upon the imperial finances as has heretofore been the case.

20. In all Revenue Settlements in which the faith of Government has not been pledged in a manner to prohibit any additional impost, provision has been made for an extra cess for the construction and maintenance of local public works, and a system of tolls has been introduced which will go far to provide means for covering the cost of repairing local roads already in existence.

21. It will not be possible for some time to state the exact amount of relief that will thus be afforded; but His Excellency the Governor in Council trusts that it will be sufficient to form a very considerable per contra item on the balance sheet of local expenditure.

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From COLONEL R. STRACHEY, R. E., Secy. to Govt. of India, P. W. Dept., to Secy. to Govt. of Bombay, in the P. W. Dept.,—No 1044, dated 4th March 1864.

I am directed to acknowledge your letter No. 222, dated 10th February 1864, representing that the grant of 66½ lakhs provisionally made for Public Works in the Bombay Presidency for 1864-65, is thought by His Excellency the Governor of Bombay in Council to be very inadequate; submitting lists of works now in actual progress; and stating the sums which are deemed requisite for the efficient prosecution of those works and for the provision of funds for other necessary works, establishments, &c., during the ensuing financial year.

2. The totals of these anticipated requirements are:—

| | Rs. |
|---|---|
| Civil Works in progress having a local character ... ... ... | 46,60,472 |
| Ditto ditto considered to be of an imperial character ... ... | 16,84,248 |
| Other Civil Works not yet begun... | 20,00,000 |
| ADD— | |
| Reserve ... ... ... ... | 6,00,000 |
| Repair[illegible] ... ... ... ... | 15,00,000 |
| Esta[illegible]ents ... ... ... | 15,00,000 |
| M[illegible] ... ... ... | 22,58,893 |
| [illegible] Grand Total (say) .. | 142 lakhs. |

[illegible] Bombay Government expresses an opin[illegible] that it will be impossible for it to make any [illegible]isfactory selection from the list of undertakings, which are in its estimation all alike of an

urgent character, and requests that, if the imperial assignment for public works for Bombay cannot be increased, the Government of India will indicate what particular works should be abandoned or deferred, adding that meanwhile the annual Budget-Estimate will not be submitted.

4. The Governor General in Council has given careful attention to these representations of the Government of Bombay, and has directed me to state that, although the Government of India is not at present in a position to promise a larger assignment of funds for Public Works in 1864-65 than has been named, yet, if more money should ultimately prove to be available, the immediate and pressing wants of the Bombay Presidency shall be fully and fairly considered.

5. In the mean time His Excellency in Council considers it advisable that the Government of Bombay should proceed with the preparation of its Public Works Budget-Estimate in the usual manner, omitting from it all *new works* not yet begun that are not absolutely and urgently needed, and, for *works already in progress*, maintaining the rate of expenditure for 1864-65 which is entered in the lists now submitted in those exceptional cases only where either it is of pressing public importance to push on a work as expeditiously as possible, or when delay in its progress may be expected to cause a material enhancement of the total cost. In all other than such exceptional cases, the Budget-Estimate should provide for a *minimum* expenditure on this class of works.

6. The Government of India would readily have acted in accordance with the desire expressed by His Excellency the Governor of Bombay in Council that the Government of India should itself specify the works on which expenditure should be reduced or stopped if more money is not available, had it been possible to do so. But an examination of the lists has shown that such a course cannot be followed generally with any advantage, and it must of necessity devolve on the Government of Bombay to undertake this duty of revision. In the case of the Military works only has it appeared to the Governor General in Council that any comments can usefully be made, and these for convenience of reference will be communicated in a separate despatch.

7. I am further desired to remark that, after giving full consideration to the circumstances adverted to in the 13th para. of your letter, in which the large demands made by the Bombay Government, considered relatively to those of other Governments, are sought to be justified, the Governor General in Council is constrained to say that he thinks the requirements of the Bombay Presidency in the matter of Public Works are urged to an extreme point, and with some want of consideration for the responsibility which lies upon the Government of India both in respect of the general administration of the finances of the Empire, and also in respect of its obligation to see that the amount which can be assigned annually [illegible] public works from the imperial revenues is allo[illegible] the several Provinces of India with a[illegible] fair regard to the claims of each. His [illegible] the present Governor of Bombay havin[illegible] part in the administration of the genera[illegible] ment of the Empire previously to his appo[illegible] to the high office he now fills, must be well [illegible] of the difficulties and the responsibility that [illegible] to be met by the Governor General in Council in this matter, and must be sensible that, however urgent the wants of any one Province may be in the matter of public works, it is not possible for the Government of India to undertake to supply them, if to do so would require an allotment from the aggregate sum available for the whole country, which would exceed the amount that a due regard to the wants of other Provinces indicates as fair and proper.

8. In para. 15 of your letter, mention is made of the "balances which are believed to be at the disposal of the Government of India for the improvement of the country generally" as a source from which it is supposed that funds might be provided for new works. The Governor General in Council fears that His Excellency the Governor of Bombay in Council is on this point under some misapprehension. It is probable that reference is made to the permission which was received in 1862 from the Secretary of State to expend three millions from the balances on reproductive public works. Since that period, however, in place of applying the surplus cash balances to public works, seven millions sterling have been applied in England and India to the payment of debt, and the balances do not now stand at the high point at which they were when the Secretary of State made the communication above referred to.

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From Colonel R. Strachey, R. E., Secy. to Govt. of India, P. W. Dept., to Secy. to Govt. of Bombay, in the P. W. Dept.,—No. 42 A—1704, dated 12th April 1864.

In continuation of my letters No. 1044, dated 4th March, and No. 39 M—1515, dated 1st April last, in reply to your letter No. 222, dated 10th February, regarding the assignment for public works to the Government of Bombay for the year 1864-65, I am directed to state, for the information of His Excellency the Governor of Bombay in Council, that the Government of India, on consideration of the means at its disposal, has determined to increase the original assignment for ordinary public works at Bombay by a special grant of 20 lakhs, irrespective of Rs. 20,43,300 for works to be carried on against land sales, and a further special grant of 7½ lakhs for new barrack buildings for European Troops, making in all nearly 110 lakhs for the year.

| | Rs. |
|---|---|
| Original grant ... | 62,00,000 |
| Special .. ... | 20,00,000 |
| Land Fund ... | 20,43,300 |
| Mily. new works .. | 7,50,000 |
| Total .. | 1,09,93,300 |

2. It is particularly requested that the Budget may be now submitted as early as possible.

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From Lieut. Colonel M. K. Kennedy, R. E., Secy. to Govt. of Bombay, in the P. W. Dept., to Secy. to Govt. of India, P. W. Dept.,—No. 964, dated 23rd May 1864.

I am directed to acknowledge the receipt of your letter No. 1044 of the 4th March 1864, conveying the remark of the Government of India on the lists of works actually in progress in this Presidency, submitted with my No. 222 of the 10th February 1864, and directing the framing of a regular Budget based on those lists, with such additions for new works as may be urgently and absolutely needed.

Circular No. 63 of 28th December 1863.
Letter No. 42 A—1704 of 12th April 1864.

2. I am also directed to acknowledge your Nos. as per margin, assigning to this Presidency the following imperial grants for the year 1864-65 :—

| | |
|---|---|
| Original grant ... ... | 62 Lakhs. |
| Special additional grant ... | 20 ,, |
| Ditto for new Barrack buildings for European Troops... | 7½ ,, |
| Total ... | 89½ Lakhs. |

Besides the above, an additional grant of Rs. 20,43,300 as a charge against sales of land has also been made.

3. The latter sum is the amount of a Budget prepared by the Rampart Removal Committee, which provides for several of the projected alterations and improvements, consequent on the removal of the old fortifications : and as it is debitable to the sale of land, which will be rendered available for disposal during the progress of the new arrangements, it is proposed in this communication to treat this grant, and the Budget of works, &c., to which it refers, entirely distinctly ; and in that view to consider the ordinary imperial grant for the year which has up to the present time been made to this Government, to be as shown above, 89½ lakhs.

4. His Excellency in Council, I am directed to say, regrets extremely that a careful consideration of the circumstances of each work now brought forward, has not enabled him to propose any omissions or reductions that would bring the amount of the Budget, which is herewith submitted for sanction, within the aggregate of the sums allotted by the Government of India. With every desire to carry out the views of the Government of India in regard to economy to the utmost limit consistent with the growing wants of this Presidency for works of public improvement, the proper administration of the country, the safety, health, and comfort of the European portion of the Army, and the necessary defensive arrangements connected with this rich port, His Excellency in Council has not been able to propose a less expenditure than that which is now provided for ; and if the sum required cannot be granted in full, he must leave it to the Government of India to determine how, and in what manner, it should be curtailed : whether by a general percentage reduction, or whether by the omission of such works as the Government of India may think fit to order to be struck out or withdrawn.

5. His Excellency in Council, I am desired to say, however, earnestly trusts that the Government of India will be able to provide the means for carrying out the different works precisely as he now proposes ; for he is satisfied, after much anxious examination, that no alteration can be made in the way of reducing allotments without sacrificing efficiency, and stopping necessary improvements, and without incurring greatly increased eventual outlay.

6. So much has been said on these points during the course of late correspondence, that it seems mere waste of labor to recapitulate arguments which have never been fully replied to, or refuted on their merits ; and in regard to the difficulty of providing funds, His Excellency in Council would, I am directed to state, submit that the rapid extension of communications, and of re-productive works of irrigation, as well as of barracks and other buildings calculated to preserve the health and lives of costly European Soldiers, are of more importance than the diminution of the public debt, and would fully justify the borrowing the capital required to complete them.

7. The proposed appropriations under the main heads of the Budget now submitted are as follows :—

| | Rs. |
|---|---|
| Orginal Works ... ... | 91,39,181 |
| Repairs ... ... ... | 19,00,358 |
| Establishment ... ... ... | 14,87,036 |
| Reserve ... ... ... | 6,00,000 |
| Total ... | 1,31,26,575 |

8. The detail of original works under the general heads of service is as below :—

| | Rs. |
|---|---|
| Military ... ... ... ... | 21,29,092 |
| Civil Administration ... ... | 4,46,357 |
| Public Improvement ... ... | 64,25,284 |
| Stores ... ... ... ... | 1,38,448 |
| Total ... | 91,39,181 |

9. The entire sum for original works provides for—

| | Rs. |
|---|---|
| Works actully in progress ... | 79,50,006 |
| New works ... ... ... | 11,89,175 |

Lists showing the great majority of the former, have already been before the Government of India with my letter No. 222 of the 10th February 1864 ; but in those lists there were a few omissions due to oversight, and several works which it was calculated, when the lists were submitted, would have been completed within the year, have still to be provided for.

10. The general results of the present propositions, as compared with those submitted with my letter No. 222 above mentioned, are as follow :—

| | According to lists previously submitted. | According to the present Estimate. |
|---|---|---|
| | Rs. | Rs. |
| Works in progress | 71,24,663 | 79,50,006 |
| Works not begun... | 34,78,950 | 11,89,175 |
| Repairs ... ... | 15,00,000 | 19,00,358 |
| Establishment ... | 15,00,000 | 14,87,036 |
| Reser[illegible] ... | 6,00,000 | 6,00,000 |
| [illegible] ... | 1,42,03,613 | 1,31,26,575 |

[illegible] a total decrease on the former estimate of [illegible] 11 lakhs, and also showing a very large [illegible]se in the demand for new works.

11. It will thus be apparent, I am directed to say, that this Government have endeavoured to meet the views of the Government of India as far as possible, by confining themselves as much as is in their power to the completion of works actually in hand, as well as by making, as far as was practicable, a reduction in the demand for funds for carrying on the necessary public works business of the country.

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From COLONEL R STRACHEY, R. E., Secy. to the Govt. of India, P. W. Dept., to Secy. to Govt. of Bombay,—No. 319A—3451, dated Simla, the 27th July 1864.

In continuation of the orders on the Bombay Public Works Budget-Estimate for 1864-65, which have just been issued, I am directed to communicate to the Government of Bombay the following further observations by the Governor General in Council, in reply to your letter No. 964 of the 23rd May last, having reference to previous correspondence upon the same subject, and to certain points connected with the entries in the Budget which appear to the Government of India to call for special comment.

2. I am, in the first place, to observe, with respect to the remarks made in the Bombay letter under reply as to the insufficiency of the funds granted, that, even if it were possible to provide a larger grant than has been given for public works in Bombay during the present year, the Governor General in Council is by no means satisfied that it would be generally beneficial, or compatible with that economical progress of public works, which the Government of India is bound to regard, to allow any increase beyond the grants already provided. The expenditure during the year on public works in the Bombay Presidency will even now, according to the estimates, exceed three and a half millions sterling.* The effect of adding sensibly to this large expenditure could hardly fail injuriously to stimulate still further the already high prices of labor and materials prevailing in the districts of Western India; and His Excellency in Council believes that the public works that can legitimately be undertaken by the Government in a given time, will be carried out in a more satisfactory way, both with regard to efficiency and economy in construction, if the chief projects now in progress are first completed, before the extensive new series of works which appear to be contemplated are put in hand.

| | | |
|---|---|---|
| * Imperial Budget-Estimate | Rs. | 1,27,03,300 |
| Local ditto | ,, | 34,76,010 |
| Railway ditto | ,, | 1,92,75,000 |
| Total ... | Rs. | 3,54,54,310 |

3. The Governor General in Council has noticed in the reports recently received from Bombay, relative to the high prices of food and labor in the west of India, that the great extent to which railways and public works have been carried on in the Bombay Presidency, is generally accepted as one of the most powerful causes of the present abnormal state of prices. It [illegible] difficult to discredit this view of the matter; [illegible] the same time, it may be observed that a [illegible] labor pushed beyond what the country [illegible] ply, and accompanied by advanced [illegible] must certainly seriously increase the cost [illegible] while it is very likely not to be follo[illegible] corresponding improved progress. A [illegible] sum is earned for a diminished task, and the [illegible]tity of work done under such circumstances is [illegible] apt to fall off absolutely, so that progress in fact may be retarded rather than advanced, in spite of the increased expenditure. This is not mere speculation.

* * *

5. So far as concerns the distribution of the surplus funds of the Empire, which the Government of India has already appropriated to public works, a reference to the actual amount of the grants made to the several Provinces, during the past and present year, will conclusively show that there has been every disposition on the part of the Governor General in Council to meet the fair claims of the Bombay Presidency for the provision of funds for carrying on its public works, having due regard to its general circumstances at the present time, which are no doubt somewhat exceptional. The question, if any arises on this point, would rather seem to be whether the other Provinces have not suffered at the expense of Bombay. This Presidency has received, during the last two years, more than one million sterling in excess of the grants made to any other Province, and almost double the amount given to Bengal. The grants are as follows :—

| | 1863-64. | 1864-65. | TOTAL. |
|---|---|---|---|
| | Lakhs. | Lakhs. | Lakhs |
| Madras ... | 67¾ | 72½ | 140¼ |
| Bombay ... | 131 | 127 | 258 |
| Bengal ... | 69¾ | 62¼ | 132 |
| N. W. Provinces... | 63¾ | 73 | 136¾ |
| Punjab ... | 56¾ | 58½ | 115¼ |

6. Further, the Government of India does not consider that any more of the surplus income of the year 1864-65 can, at the present time, be legitimately applied to increase the grant for public works. The Government of Bombay, being in possession of the general estimates of income and expenditure for the year, is aware that, after providing for the necessary wants of the administration, the chief portion of the available surplus has been devoted to public works, such a margin having been reserved as was deemed necessary, under the circumstances more fully explained in the Financial Statement (vide page 18). The Governor General in Council fully appreciates the advantages of improved roads, of extended irrigation, of barracks better suited to the requirements of the European troops, and, generally, of all those other works which the progress of the administration and of the so ial state of the country demands. But it is plain that such works can only be provided within the limits of the funds that a sound financial system shows to be available; and these considerations obviously apply to all branches of the public administration, as well as to that which is concerned with public works.

7. As regards the suggestion thrown out by the Government of Bombay, in para. 6 of your letter, that debt might justifiably be incurred for the purpose of promoting the progress of such works, it is clearly necessary that the policy of such a course should, in the first instance, be considered and recognized by the highest authority before it could be followed, and that, at any rate, no action in this direction could be entered upon

n time to have effect during the current year. The Governor General in Council feels too distinctly the serious responsibility that rests upon him in the management of the public finances, to adopt this proposal without very careful consideration of its relative advantages and disadvantages; and meanwhile the conclusion is inevitable that no large addition can at present be made to the ordinary grants for public works outlay either in Bombay or any other Province.

8. Nevertheless, with the view of meeting all reasonable claims and arguments as far as practicable, the Government of Bombay, under the orders already communicated on the Budget-Estimate, has been informed that the Government of India, on a final reconsideration of all the circumstances of the case, has determined to place an additional sum, not to exceed ten lakhs of Rupees, at the eventual disposal of the Government of Bombay, under certain conditions which have been named. This conclusion has been adopted in a great measure having regard to the fact that many of the works entered in the Budget have already been commenced, and may be now well advanced towards completion. Hence, in many cases, it may be unthrifty and otherwise objectionable summarily to stop them, or arrest their active progress.

(*Extract.*)

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## Papers relative to the operations at Bombay consequent on the removal of the old Fortifications.

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**Memorandum on the proposals of the Bombay Government as to the Improvements at Bombay, consequent on the removal of the old Ramparts.**

The Government of Bombay sends up papers showing what has been done towards carrying out the proposed removal of the old Town Ramparts, and the arrangements proposed for considering the best way of disposing of the ground obtained by the change.

It is proposed to appoint a small Committee of three, as an executive body, to draw up and submit plans, having a larger consultative Committee of the principal officials and commercial men of Bombay whose opinions would be asked on matters of importance. This was the system the Government of India has adopted for dealing with the Calcutta Public Offices.

The Government of Bombay, in nominating the Executive Committee, indicates the objects that will require their attention, which naturally will be very various and need not be recited.

The instructions of the Bombay Government are mainly of a suggestive character.

There remains one important subject, not very prominently alluded to, but which should be considered at once; viz., the general financial question of how the outlay on these works is to be met and dealt with.

It is stated in the papers sent up that the estimated value of the land that will be at the disposal of the Government of Bombay on the removal of the old fortifications will be about 282 lakhs, say 2¾ millions. Against this will have to be set off the construction of new Forts on the land front, and barracks to replace those in the town which it is desired to remove, estimated at 20 lakhs, leaving, say, 260 lakhs for general purposes.

Further, there is a long list of public buildings given in the Resolution of the Bombay Government which will have to be provided for. And lastly may be added as a claimant against this fund, the Harbour Defences.

On the whole, it will not be too much to set down roughly 100 lakhs at least, as the probable sum that would be required for these objects. But if the estimated value of the land is at all near the mark, there will still be a large margin to work upon without any demands being likely to arise on the general funds of the State.

The question arises, how shall the receipts arising from the sale of land, and the expenditure, be dealt with so as to bring all the transactions properly within the scope of the Budget system?

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**From Lieut. Colonel J. P. Beadle, R. E., Offg. Secy. to Govt. of India, P. W. Dept., to Secy to Govt. of Bombay, in the P. W. Dept.,—No. 1204, dated 17th March 1863.**

The Bombay Government's letter No. 6302 of 1862, in the Public Works Department, forwarding papers showing the proceedings taken in dealing with the contemplated removal of the Ramparts of the Town, and laying out the ground that will thereupon become available for building purposes, was laid before the Governor General, and has been carefully considered in due course; and I am now directed by the Hon'ble the President in Council to convey to you the following observations, to which His Excellency the Governor General has expressed his approval, on this important subject.

2. The Government of India approves generally of the steps that have been taken by His Excellency the Governor of Bombay in Council for carrying out the enquiries that will be essential preliminaries to any actual execution of work, and acquiesces in the general tenor of the conclusions of the Bombay Government embodied in its Resolution of the 22nd November 1862.

3. Looking, however, to the unprecedented magnitude of the works which it is contemplated to carry on in the Island of Bombay, extending, as they must, over many years to come, and to the importance on the one hand of securing all reasonable freedom in the application of the funds that will be realized by the sale of the land made available, and on the other of maintaining the usual guarantees for the regularity of the expenditure, the Government of India is of opinion that the Bombay Government should adopt the following course of procedure in dealing with the financial part of the question:—

First.—To form the best estimate in their power, at the commencement of the operations, of the probable sum to be realized from the Land Sales as well as of the cost of each principal portion of the projected works.

Second.—To carry the whole of the proceeds of the sales of land, &c., to credit in the Public Accounts as Revenue, but to keep an Account which shall show [illegible] aggregate sums realized from this source fro[illegible] to time.

Third.—[illegible] bit the whole of the expenditure in th[illegible] as charge under the head of Pu[illegible]; keeping at the same time a distinct a[illegible] the aggregate outlay on the works a[illegible] ecution.

Fou[illegible] the Government of India will then be pre[illegible] to make provision from year to year in th[illegible]nary Public Works Budget, but as a special grant, in addition to the customary or

ordinary assignment for Public Works that might be considered suitable for the Bombay Territory generally, having reference to its Revenue and so forth, of such sums as may be expected to be required by the Bombay Government for carrying out these projected works or such of them as may be generally approved by the Governor General in Council, subject to the usual checks in respect to sanction of Estimates, &c., and to the further condition that at no time shall the Imperial Treasury be liable to contribute any such special grants in excess of the surplus of the aggregate of the receipts from the sales of land over the aggregate expenditure on the works in question.

4. It has been thought expedient by the Government of India to give this early intimation of its views on the financial part of this question, although it is not specially discussed by the Bombay Government. It has been observed that Sir W. Mansfield* had proposed that a Budget, apart from the ordinary Public Works Budget, should be prepared for the improvement and fortifying of Bombay, and that the balance yearly accruing from the Land Sales, in excess of what was spent on the works, should be transferred to the Treasury. His object in suggesting this is thus explained by him: "I do not mean by this to alienate the question of expenditure on these works from the general Budget of the Empire, but merely to take precautions that the resources we provide for our works by a large scheme, without trenching on ordinary Revenue, may not be absorbed and devoted to other purposes until the works are finished."

* See his Minute "on Land Defences and removal of the present Ramparts of Bombay."

5. The Bombay Government has not advocated such an exceptional manner of dealing with this expenditure, but it may at once be observed that the Government of India considers such a course to be unnecessary, and for many reasons objectionable; and that, by following the course laid down in the early part of this letter, the securities for an exact financial administration provided by the established system of estimate, account, and audit, will be satisfactorily applied; while the Government of Bombay will have full assurance that all the funds required for carrying on the works will be provided, year by year, so far as means become available, by the sale of land. Beyond this the Government of India can offer no pledge to supply the requisite money, but thus far it admits readily the claims of the Bombay Government to apply the special fund thus created to the special objects in view.

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From Lieut. Colonel J. P. BEADLE, R. E., Offg. Secy. to Govt. of India, P. W. Dept, to Secy. to Govt. of Bombay, in the P. W. Dept.,—No. 1205, dated 17th March 1863.

I am commanded by the Hon'ble the President in Council, with reference to Government of India Proceedings No. 1204 of this date, on the subject of the Improvements to be carried out at Bomb[illegible] consequent on the removal of the old Ramp[illegible] the request that you will move His Excellen[illegible] Governor to cause an Estimate to be p[illegible] the sum expected to be realized from the sa[illegible] land *within* the year 1863-64, and of the am[illegible] expected to be required for each work, forming [illegible] of the projected improvements, *within* the sam[illegible] period.

2. As this Statement is required to be included in the Budget for 1863-64, I am to request that it may be furnished to the Financial Department of this Government with the least practicable delay.

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Extract from the Proceedings of the Govt. of India, in the Finl. Dept.,—No. 516, dated 2nd June 1864.

Read endorsement from the Public Works Department, No. 13A—1470, dated 30th March, forwarding for consideration, with reference to its previous endorsement of the 17th March 1863, No. 1204 A. a letter from the Government of Bombay No. 182 of 1864, dated 25th February, enclosing Budget Statements received from the "Rampart Removal Committee" of works on which expenditure is to be incurred in 1863-64, as also a General Statement of the probable receipts and disbursements of the Committee during that year, together with a Note on the case by Colonel Strachey, the Secretary in the Public Works Department.

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RESOLUTION.—The Governor General in Council observes that the course to be adopted in reference to the important system of works for the improvement of the City of Bombay, carried on under the superintendence of the "Rampart Removal Committee," was laid down, after much consideration, in the letter from the Public Works Department to the Government of Bombay, No. 1204, dated 17th March 1863.

2. These instructions were based upon the principle that the expenditure was to be limited by the actual proceeds of the sales of land and buildings, and that, while every reasonable discretion would be allowed in regard to the detailed operations, the securities for an exact financial administration provided by the established system of estimate, account, and audit, were to be fully applied.

3. For this purpose the Government of Bombay was requested—

1st.—To form the best estimate in its power at the commencement of the operations, of the probable sum to be realized from the land sales, as well as of the cost of each principal portion of the projected works.

2nd.—To carry the whole of the proceeds of the sales of land, &c., to credit in the Public Accounts as Revenue, but to keep an account which should show the aggregate sums realized from this source from time to time.

3rd.—To debit the whole of the expenditure in the Public Accounts as charge under the head of Public Works, keeping at the same time a distinct account of the aggregate outlay on the works approved for execution, and, subject to these conditions, it was stated that "the Government of India will then be prepared to make provision, from year to year, in the ordinary Public Works Budget, but as a special grant, in addition to the customary or ordinary assignment for Public Works that might be considered suitable for the Bombay Territory, generally, having reference to its Revenue and so forth, of such sums as may be expected to be required by the Bombay Government for carrying out these projected works, or such of them as may be generally approved by the Governor General in Council, subject to the usual checks in respect to [illegible]ion of Estimates, &c., and to the further condi[illegible]on that at no time shall the Imperial Treasure [illegible]le to contribute any such special grants in [illegible] of the surplus of the aggregate of the re[illegible]ipts from the sales of land over the aggregeat [illegible]penditure on the works in question."

4. A Statement has now been received from the Government of Bombay, of the probable re-

ceipts and disbursements of the "Rampart Removal Committee" for the year 1863-64.

| | |
|---|---|
| The estimated expenditure *within the year is* ... | Rs. 4,51,250 |

The following advances have been made from public funds :—

| | |
|---|---|
| Special loan from Government (20,000 & 50,000) | Rs. 70,000 |
| Advanced from the proceeds of the sale of the old European General Hospital ... ... | „ 1,48,405 |
| Total ... | Rs. 2,18,405 |

and the following sums are stated as the expected receipts within the year :—

| | |
|---|---|
| To amount derivable from sale of old materials ... | Rs. 20,000 |
| Do. from sale of lands, 5,750 square yards, at Rs. 75 per yard ... | „ 4,31,250 |
| Total ... | Rs. 4,51,250 |

But, with reference to the latter, the Government of Bombay explain that no leases of building sites have yet been sold on account of the tightness of the money market, and because no approved forms of leases have been received from the Secretary of State.

5. As regards the transactions of the past year, the Governor General in Council requests—

1st.—That all sums in deposit, on account of the sale of land or buildings belonging to the Government, may at once be credited to Revenue as "incidental receipts of the Public Works Department." This should include the proceeds of the sale of the old European General Hospital, the proceeds of "certain small plots of ground in the Fort and other localities (Rs. 1,11,000)," and all other similar deposits; and

2nd.—That an account may be furnished of the *actual* receipts and expenditure up to the close of 1863-64, showing the balance due to the Government.

6. As regards the current year 1864-65, the Government of Bombay has reported that Rs. 25,00,000 is expected to be realized in the course of the year by the sale of lands on the Esplanade, and that the sum required for the public buildings at Bombay is Rs. 20,43,300. The first-mentioned sum has accordingly been included in the Budget Estimate of Public Works Receipts, and the latter provided for under Public Works Expenditure.

7. The manner in which it is proposed to spend the above-mentioned sum of Rs 20,43,300 will of course be shown in the Budget Estimate submitted in the Public Works Department; but the Governor General in Council considers it very essential that the Government of India should receive early information as to the steps which it is intended to take for the realization within the current year of the estimated sum of 25 lakhs of Rupees, and at what periods of the year and in what proportions it is expected to be obtained.

8. If there are special causes still existing to prevent the immediate realization of a portion of this money, it is obvious that all fresh expenditure will continue to be met by advances from the General Revenues, as has been already the case in the past year. Possibly a temporary anticipation to some moderate extent of the receipts, by means of which the Bombay Government has proposed specially to provide for this great work, may be unavoidable, but the Governor General in Council must beg that the actual state of the case at the present time may be accurately explained, and that if the Bombay Government considers it necessary for the present to prosecute the work in hand by means of further advances from the General Revenues, it may be explicitly so stated, and the amount required named.

9. The receipt of 25 lakhs from the sale of land having been included in the Budget Estimate of the year, His Excellency the Governor in Council will perceive that, if there is any prospect of a failure to realise that income, or even any part of it, it is most essential that the Government of India should be informed, and that it should be at once considered to what extent the works can in that case expediently be carried on during the year.

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From COLONEL R. STRACHEY, R. E., Secy. to Govt. of India, P. W. Dept., to Secy. to Govt. of Bombay, in the P. W. Dept.,—No. 544 A—4656, dated 21st September 1864.

It has been brought to the notice of the Governor General in Council by the Accountant General, in the Public Works Department, that the Government of Bombay has authorized establishments in connexion with the operations of the Rampart Removal Committee, amounting to Rs. 2,328 monthly, for which the sanction of the Government of India has not been obtained in the usual course. The Controller of Public Works Accounts at Bombay is in doubt whether he is authorized to continue to audit disbursements for these establishments; and observes that it is contrary to rule to charge salaries against the Budget credits for *Works*, which course seemed to him to have been ordered by the Bombay Government in opposition to the instructions of the Government of India.

2. The Governor General in Council is of opinion that, under the orders contained in the Government of India's letter No. 1204, dated 17th March 1863, it is necessary that the whole of the expenditure incurred under the Rampart Removal Committee should be dealt with in the ordinary Public Works Budget, and under the ordinary rules that regulate the expenditure of Public Works Funds.

3. The whole of the Estimates for works should be brought forward in Part I or Part II of the general Public Works Budget, according as they may be for original works or for repairs; and the whole of the establishments in Part III. The appropriations for these major heads must be regarded as fixed when approved by the Government of India, and alterations in them will call for special sanction of the Government of India, as much in the case of works under the Rampart Removal Committee as in those under the ordinary Public Works Officers.

4. It seems to be again necessary to remind the Bombay Government that it is the wish of the Governor General in Council that there shall be one Public Works Budget-Estimate only for the Public Works expenditure at that Presidency. There will be no objection to the Government of Bombay indicating in the general Budget-Estimate in any manner most convenient to itself those works and charges that are connected with the operations of the Rampart Removal Com-

mittee; but the whole of them must find places in the general Budget-Estimate of this Department under the three main heads of Original Works, Repairs, and Establishments, under which the final appropriations are made by the Government of India. The reasons for which this course is deemed necessary for financial regularity have already been explained to the Government of Bombay, and the orders on the subject have been specifically approved by Her Majesty's Government.

5. As a necessary and obvious sequel to these orders, it is requisite that all needful specific sanctions to outlay shall be obtained from the Government of India in the case of the Rampart Removal Committee's operations in the same manner as in the operations of the ordinary Public Works Department. The nature of the Budget system as applied to the Public Works Department requires this. Works and establishments that might be sanctioned by His Excellency the Governor of Bombay in Council in the ordinary working of the Public Works Department, may be sanctioned in connexion with the Rampart Removal Committee's operations; and in those cases in which the approval of the Government of India is requisite in the former case, it will be requisite in the latter also.

6. I am directed to add that, although this procedure is enjoined on the Government of Bombay, it is the desire of the Government of India to leave to His Excellency the Governor of Bombay in Council the largest possible discretion in the application of the funds available for these special purposes.

7. As regards works, all objects proposed, which the Government of India considers fairly within the scope of such operations as those now in hand at Bombay, will be passed without any disposition to question the details of construction or exact cost.

8. As regards establishments, a like course will be pursued. The specific rules of the Public Works Department as to the limitation of salaries or allowances will not be insisted on in this case, and the Bombay Government will find the Governor General in Council on all occasion disposed to accede to every reasonable proposal submitted for approval.

9. At the same time it seems to the Governor General in Council quite as necessary to insist on an exact adherence to fundamental financial rules in the actual disbursements for these works as for any others. No works should, under any circumstances, not really and *bonâ fide* emergent, be commenced without properly sanctioned estimates. No salaries should be disbursed without proper previous sanction. A complete distinction should be made between the charges for works and establishments, and these should be exclusively [illegible]ited to the proper Budget main head of s[illegible] Unless strict adherence to these great p[illegible] the [illegible]en-forced, the Governor General in [illegible] assured that proper economy in the dis[illegible] and regularity in the accounts cannot [illegible] tained.

10. With these remarks I am to request [illegible] submission for sanction by the Governmen[illegible] India, of such a scale of establishment as the Go[illegible]ernment of Bombay may desire to propose for the supervision of the operations in question.

From Lieut. Colonel M. K. Kennedy, R. E., Secy. to Govt. of Bombay, P. W. Dept., to Secy. to Govt. of India, P. W. Dept.,—No. 1418, dated 30th July 1864.

I am directed to acknowledge the receipt of Extract from the Proceedings of the Government of India in the Financial Department, No. 516, dated 2nd June 1864, conveying certain instructions on a communication from this Government relating to the statement of the probable receipts and disbursements of the Rampart Removal Committee, Bombay, during the past official year.

2. In reply I am directed to state that the course laid down in paras. 1 to 3, relating to the mode in which receipts and expenditure on the improvement to the City of Bombay should be accounted for, is fully understood by this Government, in the Public Works Department, and will be carefully acted on.

* * * *

5. The Rampart Removal Committee's Budget for the current year has been long delayed for various reasons with a detail of which it would be useless to trouble the Government of India, but it is now under review, and will be submitted in the course of a few days; and more precise information regarding the probable receipts on account of the sale of land during the current year, will be afforded after the first trial sales, which are fixed to take place during the ensuing month. It has yet to be seen what market there is in Bombay for land let on building lease under the usual conditions; but the experiment of the trial sales now about to be made will afford necessary data for more exact calculation than has hitherto been practicable, and will show, if any, and what, modifications of terms are necessary in putting up the lots to auction.

6. Should, from any causes which are at present unforeseen, the result of the sale be less favourable than is anticipated, and should, for any good reason, which in that case will be made plain to the Government of India, it be considered desirable to suspend or defer the sales, this Government will thankfully avail themselves of the liberal arrangements which have been proposed by the Government of India in their Financial Resolution under notice, by which moderate advances will continue to be made from the general revenue. On this point the precise information called for by the Government of India will be hereafter furnished.

7. The information called for in para. 5, clause 2, regarding actual receipts and disbursements during the past year, shall, I am desired to say, be supplied shortly.

8. I am now directed to forward, for the information of the Government of India, a general sketch estimate by the Rampart Removal Committee, of the total probable receipts and disbursements consequent on the arrangements for carrying out the improvements of the City of Bombay on the removal of the Ramparts. This document will put the Government of India in possession of the general programme it is intended to follow, though of course many alterations may, and no doubt will, be made as the improvements proceed.

9. From this statement it will be observed that [illegible]e proceeds of the sale of lands are estimated, at a [illegible]ry moderate rate, to amount to upwards of 200 lakhs, against which there is a proposed expenditure of about 180 lakhs; and His Excellency the Governor in Council trusts that this statement will assure the Government of India that all that it is contemplated to undertake will be covered

by the amount of funds that will certainly be realized, leaving in fact a very considerable margin for unforeseen contingencies.

10. In illustration of this statement I am directed to attach a lithographed copy of a plan showing approximately the position of the various new public buildings contemplated—the proposed arrangement of the Esplanade—roughly the boundary lines of the neighbouring Reclamation—the two Termini of the trunk lines of Railway—and the position of the principal land and sea defences. On this map the position of the plots of land it is intended to sell are also indicated.

11. In further illustration a bird's-eye view of the city and its neighbourhood is forwarded, which shows, though of course only approximately, the aspect which Bombay will assume when all that is now contemplated has been carried to a successful conclusion.

12. This map and the accompanying drawing will, it is hoped, put the Government of India clearly in possession of the general intention of this Government in regard to these works, and very much facilitate any reference that may afterwards arise in regard to details. If the plans will do nothing else, they will at least serve to fix ideas, and form the basis for after-proceedings and adjustments.

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From COLONEL R. STRACHEY, R. E., Secy. to Govt. of India, P. W. Dept., to Secy. to Govt. of Bombay, in the P. W. Dept.,—No. 658A—5185, dated 2nd November 1864.

Your letter No. 1418, dated 30th July, forwarding for the information of the Government of India a general sketch of the proposed operations of the Rampart Removal Committee, with an approximate estimate of the receipts from the sale of the land which will be available on the removal of the old fortifications, and of the manner in which it is contemplated to apply the fund thus formed, has been received and read with much interest by the Governor General in Council.

2. The Government of India does not doubt that the great works which are described will, on their completion, add very much to the convenience of the community at Bombay, both official and non-official, and the Governor General in Council feels every confidence that His Excellency the Governor of Bombay in Council will continue to direct the operations in a manner that will, before long, give solid practical proof of the immense advantages to the public that will attend this reconstruction of the European portion of the city. The Government of Bombay has an opportunity of producing great results in these works, which is rarely enjoyed by any Government, and the Governor General in Council cordially hopes that its efforts and those of the wealthy and spirited community residing in the Island of Bombay may be crowned with the most complete success in handing down to posterity a Western Capital, in all respects worthy of its proud position, and combining with architectural effect the great requisites of convenience and salubrity.

3. It has been stated by the Government of India on former occasions that there will be every disposition on its part to co-operate in the prosecution of the great work thus before the Government of Bombay, and the Governor General in Council now desires to accord his general approval to the proposals that have been put forward, subject to some few reservations to which I am to request attention. The present opportunity may further usefully be taken to express the opinion of the Government of India on the general outlines of the anticipated expenditure, and the principles that should determine the character of the projected works.

4. The estimated assets are reckoned at about 2 millions sterling, the corresponding outlay being about £1,800,000, leaving a margin of say £200,000.

It is observed that no charge has been entered for establishments, though the expenditure under this head will no doubt be considerable. The estimate for the works may, however, be intended to include this item of outlay.

5. The receipts from the sale of land are apparently calculated on the whole area to be operated on, a corresponding charge being made under each of the separate items in the estimate of expenditure. This may be the most convenient way of exhibiting the virtual outlay, but of course the actual cash transactions will be sensibly less than the figures shown. The reduction in the assets on this account will be from 206½ lakhs to 158 lakhs, and in the outlay, from 180 lakhs to 131½ lakhs; the value of the land assigned for the public buildings being 48½ lakhs.

6. It is further noticed that the estimate seems only to deal with the land set free on the old Esplanade, and to take no note of the value of the land to be reclaimed on Moody Bay. In like manner, the charges connected with that reclamation are not exhibited, and, what is no less important, the cost of the harbour fortifications has been omitted.

7. The Governor General in Council observes that it has throughout been the intention of the Government of India that all the operations on the Island of Bombay connected with these great local improvements, should be regarded as forming parts of one general scheme, and in a corresponding manner that all the money obtained from land sales should be reckoned as going to one fund to meet the charges. It is probable that the omissions just referred to, when corrected, may not lead to any important disarrangement of the balance between the estimated assets and outgoings, and under any circumstances it will now suffice to refer to the point as one calling for attention.

8. I am to add, with reference to the Harbour Defences, that in the estimation of the Governor General in Council their cost should apparently form a first charge against the fund created by the sale of land for local improvement. The sum to be applied to these works may be regarded as a Reserve or Insurance Fund, devoted to the protection of the great commercial interests located at Bombay. And considering that the bulk of the money available for the operations under review will be derived from a modification of the old system of Military defence which is now no longer suitable, it is but reasonable first to meet the new re[illegible]ments for the general safety of the city and p[illegible] respects from the funds supplied from th[illegible]orks, and to regard the remainder only as [illegible] application to other wants.

[illegible] distribution of the projected outlay [illegible] Civil and Military buildings is as [illegible]:—

| | | |
|---|---|---|
| [illegible] Military | ... | ... 64½ lakhs. |
| [illegible] Civil | ... | ... 105½ ,, |

* * *

[Here follow remarks on the details of the proposals for works.]

The following is an abstract of the estimate for Military works :—

| | | Rs. | Rs. |
|---|---|---|---|
| 1. | Demolitions ... ... | 1,79,585 | 1,79,585 |
| 2. | Fort George ... ... | 10,00,000 | |
| 3. | Fort on Back Bay ... | 3,51,000 | 13,51,000 |
| 4. | Staff Officers' quarters, with land ... ... | 15,00,000 | |
| 5. | Warrant Officers' ditto ... | 6,00,000 | |
| 6. | Native Infantry Lines ... | 20,00,000 | 41,00,000 |
| 7. | Ordnance Office .. | 36,700 | |
| 8. | Commissariat Offices with land and temporary accommodation ... ... | 1,30,896 | |
| 9. | Military accounts ditto ditto | 5,25,134 | |
| 10. | Commandant's Staff ... | 53,300 | |
| 11. | Medical Staff .. ... | 63,500 | 8,09,530 |
| | Total ... | | 64,40,115 |

The proposed Civil works are as follows :—

| | | Rs. | Rs. |
|---|---|---|---|
| 1. | Roads ... ... | 2,50,000 | |
| 2. | Recreation grounds ... | 75,000 | |
| 3. | Fountain ... ... | 11,126 | 3,36,126 |
| 4. | Post Office, with land ... | 8,00,000 | |
| 5. | Telegraph Office, ditto ... | 2,50,000 | 10,50,000 |
| 6. | Official residences for Civil Officers of superior rank.. | 13,10,000 | |
| 7. | Ditto for inferior grades ... | 1,50,000 | 14,60,000 |
| 8. | Secretariat Office ... | 9,90,000 | |
| 9. | Accounts ,, ... | 3,09,550 | |
| 10. | Collector, Stamps, Stationery Office ... ... | 2,18,050 | |
| 11. | Executive Engineer's Office... | 1,11,400 | |
| 12. | Rampart Committee's Office... | 15,000 | 16,44,000 |
| 13. | High Court House ... | 20,50,000 | |
| 14. | Small Cause Court | 1,31,250 | |
| 15. | Administrator General's Office | 22,500 | |
| 16. | Police Office ... ... | 2,97,100 | 25,00,850 |
| 17. | European General Hospital.. | 18,93,300 | |
| 18. | Land for Dispensary ... | 44,400 | |
| 19. | Parsee Benevolent Institution | 75,000 | 20,12,700 |
| 20. | University Hall (land) ... | 1,85,150 | |
| 21. | School of Arts ... | 1,50,000 | |
| 22. | Cathedral Schools ... | 97,000 | |
| 23. | Scotch Kirk ditto ... | 97,000 | |
| 24. | Mechanic's Institute (land)... | 50,000 | 5,79,150 |
| 25. | Land round public buildings | 9,60,000 | 9,60,000 |
| | Total ... | | 1,05,42,826 |

* * *

29. In making these comments on the general proposals as to these works, the Governor General in Council desires that it may be understood that he wishes to meet as far as possible the views of the Bombay Government regarding them, and to facilitate as much as possible the furt[illegible] operations in connexion with them. It has therefore been thought expedient at once to p[illegible] that those works to which exception is taken [illegible] regarding which no question aris[illegible] Bombay Government may be in a posi[illegible] remove the objections, if on recons[illegible] desires to press for the acceptance of [illegible] as now sent up, and the way may be cle[illegible] for the final preparation of the designs and est[illegible] and execution of the approved works without [illegible]ther question.

30. It may be added in explanation of the grounds on which some of the comments of the Government of India have been based, that while the Governor General in Council is quite disposed to allow all reasonable latitude to the Bombay Government in the detailed application of the funds specially set apart for these works, yet these funds are, in His Excellency's estimation, so far public and imperial monies, that their application must be limited by the same general considerations of policy and propriety that determine the application of all public money. His Excellency in Council, therefore, cannot admit that objects which would not under ordinary circumstances be fairly chargeable to the State, may in the present case be carried out by help of these funds, because a surplus remains after providing for all legitimate purposes.

*(Extract.)*

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**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic. cap. 67.**

The Council met at Government House on Friday, the 20th January 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádur.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

INSURANCE COMPANIES' LIMITED LIABILITY BILL.

The Hon'ble MR. MAINE in moving for leave to introduce a Bill to enable Insurance Companies to be formed on the principle of Limited Liability said :—

"Sir, the immediate occasion of proposing this measure is a representation received from certain Native Gentlemen to the effect that they are prevented by what appears to be an accidental condition of the law from forming Life Insurance Companies on the principle of limited liability. They represent that the Life Insurance Companies now established in India are branches of English Companies registered in England, and that they rarely or never accept Native lives, probably from want of sufficient information, in the shape of vital statistics, for the calculation of the premiums. This difficulty the applicants think that they can get over; and no doubt they may be able to command sources of information which are not open to an European. But at the same time they urge that not only the persons assured, but the shareholders in such Companies will always

be Natives, and they say that no Native will embark in an undertaking of the kind unless it be formed upon that footing of limited liability on which English Insurance Companies may now be constituted. These gentlemen certainly appear to be in the right when they state that there is a difference between the English and the Indian law on the subject of liability, which cannot be justified. The course of legislation in the two countries has been as follows :—The earliest Limited Liability Act passed in England was the 18th and 19th Vic., cap. 133. Both Banking and Insurance Companies were exempted from the principle of that Act. The Indian enactment, Act XIX of 1857, was almost literally copied from it, and contained similar exceptions. Two years after the first English Act on the subject became law, a second Act passed—the 21st and 22nd Vic., cap. 91,—which repealed the exception as to Banking Companies. The Indian Legislature followed suit with Act VII of 1860, which also permitted Banks to be founded on the principle of limited liability. Lastly, in 1862, the English Parliament passed the 25th and 26th Vic., cap. 87, which permits all Insurance Companies, whether Life, Fire, or Marine, to have the benefit of limited liability; and while repealing this last exception, it consolidates the whole law respecting the registration, incorporation, and winding up of Joint Stock Companies. Sir, the only reason why I have not earlier asked your Excellency's permission to publish a Bill which shall follow English legislation in repealing the exception as to Insurance Companies is, that I have a great dislike of piecemeal legislation, and I was desirous that the new law, like the last English Statute, should be a consolidating Act, comprehending the whole law on the subject of limited liability. But, Sir, the pressure of legislative business has been so great that I have been prevented carrying out this design. The Council knows what the pressure is on its Committees; that we have before us two Codes—the Civil Procedure Code and the Indian Civil Code—which make the heaviest demands on our powers and our time, and that accordingly a comprehensive Bill such as I have described could not with advantage be submitted at present. Hence, as I do not wish to keep the applicants from what seems to me to be their right, I am driven to a mere amending Bill, like the former Indian Acts, simply extending the provisions of the older law to Insurance Companies constituted under limited liability. At the same time it is my opinion that the preparation of a consolidating law on the subject is one of the earliest tasks to which the Legislative Department should address itself, and I now throw out a suggestion for the consideration of the Council, and in particular, of the mercantile members, and indeed, of the Public generally—a suggestion which I do not think can be too much discussed—whether the opportunity should not be seized of such consolidating law to take that step which the English Parliament appears to be on the point of taking, and to legalize the form of limited liability which is known as commanditarian partnership. Sir, all the English law on the subject of limited liability has been taken from the French law, and it has always been matter of surprise to the best authorities on the subject that, while the English Legislature copied in its integrity the legal constitution of one sort of limited partnership—the *société anonyme* or Joint Stock Company Limited, now so familiar to us—it refrained from trying an experiment which at first sight seems less hazardous, by transferring to English law the commanditarian partnership. This can only be accounted for by the fact that Englishmen were already somewhat familiar with limited liability in joint stock associations through the previous application of the principle to Chartered Companies. Sir, I need not do more than explain very briefly that a commanditarian partnership is a mixture of limited and unlimited liability: the ostensible partner—the acting and managing partner—trades under unlimited liability, but other persons are allowed to share in the profits of the Firm, provided that they register the amount of their advances and carefully abstain from interfering with the conduct of the business. These two last conditions—registration and abstinence from meddling with the management—are rigorously insisted on in order to close the door against obvious frauds. Sir, the English Parliament in its last session all but passed a Bill legalizing commanditarian partnership. But the reason why I suggest the question for special consideration in India is, that I think this form of limited liability particularly suited to the country. In France, it is considered the form of limited partnership peculiarly adapted to the business of retail tradesmen of the higher class. Such businesses mostly depend in an unusual degree on the skill and knowledge of the person who founded the Firm or conducted it to success; and commanditarian partnership has the advantage of giving the limited partners the utmost possible hold on the continued services of the person who created the fortunes of the Firm. When, then, I see, on this side of India, the businesses of the larger retail tradesmen freely converted into limited liability Companies, and investers freely embarking their money in the shares of such Companies, it does strike me as a little singular that the capitalist on this side of India should be tied down to that form of limited partnership which gives the limited partner the smallest and weakest hold on the continued assistance of that partner whose services, by the assumption, are of the greatest value. Of course, Sir, I only suggest the question now for general consideration. Before any Bill on the subject is published, your Excellency will probably see fit to ask the opinion of the Chamber of Commerce and other mercantile associations, and of any individuals whose views may be of authority on such matters."

The Hon'ble Mr. Cowie said that he did not propose to offer any opposition to the introduction of this Bill. It would stand upon its own merits when really introduced. But he wished to mention that, having held the opinion that the British Legislature exercised a wise discretion in excepting Insurance Societies from the operation of the Limited Liability Act, he was not at once prepared to admit the wisdom of a reversal of that step. He would not object to see Marine and Fire Insurance [illegible]npanies brought under that Act, but he thou[illegible] Life Insurances stood upon a different fo[illegible] Most of these were taken out for the [illegible]ly, and he considered there was a [illegible] responsibility thrown upon an Office w[illegible]ertook the risk, more than there was [illegible] who granted policies against loss by sea [illegible]. He would be sorry to see the liability lim[illegible]d in those cases short of the whole property [illegible] share-holders. He was quite aware that [illegible] large Insurance Companies at home enjoyed limited liability under their Acts of incorporation,

and if the Hon'ble Member (Mr. Maine) proposed any safeguards in his Bill, similar to those under which incorporation was obtained—such as the largeness of the paid-up and invested capital—his (Mr. Cowie's) objection to the measure would be greatly removed.

The Hon'ble Mr. Maine said that he did not quite understand whether his hon'ble friend was aware that Insurance Companies, whether Life, Fire, or Marine, could now be freely formed in England on the footing of limited liability under the last Act he (Mr. Maine) had before cited. That being so, Mr. Maine must say that, when any commercial principle was sanctioned among the large, wealthy, and active mercantile community of England, there could not often be much ground for hesitating to adopt it in India. Moreover, there was nothing to prevent Life Insurance Companies formed in England under limited liability from establishing branches or agencies in India. Mr. Maine was under the impression that some of the Life Insurance Companies now trading in India were in fact trading under a limited liability derived from registration in England—at all events, there was nothing to prevent their availing themselves of the English law.

The Hon'ble Mr. Harington submitted that the discussion at the present time of the provisions of the Bill which his hon'ble colleague, Mr. Maine had asked for leave to introduce was irregular. Hon'ble Members had not yet received copies of the Bill and of the statement of Objects and Reasons. They did not know the precise form the Bill would take, or what would be the exact nature of its provisions, and they had not come prepared to discuss on that the principle of the Bill. Under the rules of the Council, the introduction of a Bill, after a copy had been circulated to all the Members of the Council with the statement of Objects and Reasons, was the proper time for discussing the principle of the Bill and its details.

The Motion was put and agreed to.

### Act xxxi of 1860, Continuance Bill.

The Hon'ble Mr. Maine, in moving for leave to introduce a Bill to continue Act XXXI of 1860 for one year from the expiration thereof, said that the measure which he proposed to continue for a single year, and which was known as the Arms Act, had excited considerable discussion when it was originally introduced by his hon'ble friend at his side, Mr. Harington. It would not serve any useful purpose if he (Mr. Maine), who only knew that discussion, so to speak, by tradition, were to enter upon an enquiry whether the apprehensions of certain possible results of the measure felt at the time by a part of the community were justifiable or not. He would only say that the Government of India had required from all the local Governments and Administrations a report on the working of the measure, [illegible] especially as to its incidence on p[illegible] classes. Mr. Maine believed that these repor[illegible] show that no European in all India had [illegible] under the Act. The answers to [illegible] could not, however, come in very rapid[illegible] the enquiry had to be conducted over a ve[illegible] and with particular carefulness in the [illegible] of the country, where the law was some[illegible] reported to have encouraged the multiplicatio[illegible] wild beasts. It was not probable, or even possible [illegible] there would be a sufficient interval, before the [illegible]piration of the Act, to consider whether it should be perpetuated or prolonged. Mr. Maine did not suppose that the Council would refuse to continue for a year a law which, apart from questions of detail, had assuredly contributed largely to the extraordinary peace and security which India had been recently enjoying.

The motion was put and agreed to.

### Civil Courts' (Central Provinces) Bill.

The Hon'ble Mr. Harington introduced the Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces, and moved that it be referred to a Select Committee with instructions to report in four weeks. He said that the Bill would apply only to the Central Provinces. It was desirable that the Bill should, if possible, become law during the present sittings of the Council. The Bill involved no question of principle; and the local authorities would have ample opportunity of submitting any remarks or suggestions which they might wish to make during the four weeks for which he had proposed that the Bill should be published.

The motion was put and agreed to.

### Financial Commissioner (Oudh) Jurisdiction Bill.

The Hon'ble Mr. Cust, in moving for leave to introduce a Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh, stated that this Bill was a portion of a Bill with a much wider object introduced into this Council on the 12th March 1862 by His Excellency the Governor General, Lord Canning, who remarked as follows:—

"The Bill went farther and dealt with suits of whatever description relating to the title to lands in Oudh. In regard to these, it restored the state of things subsisting in Oudh prior to the introduction of Act VIII of 1859. Before that time all such suits were adjudicated by the Revenue Authorities, subject to appeal to the Chief Commissioner as Financial Commissioner. Act VIII had been understood to alter the procedure, and to place such questions under the cognizance of the Civil Courts. There had been, however, doubts as to the operation of that Act in this respect, and it was therefore desirable that the law should be clearly defined. He deemed it far preferable that, in a country in the condition of Oudh, where our laws and system of legal procedure were not familiar to the people, where the Settlement was still a summary and temporary one, and where the Government had yet to feel its way to a wise, encouraging, and beneficial Settlement, questions relating to land should, as far as possible, continue to be dealt with as revenue questions, and not be brought within the scope of our Courts and law."

No further action was taken: intermediately the Office of Financial Commissioner had been revived.

Apparently something was contemplated in 1862 beyond the scope of this Bill, which only provided for a change of tribunal, but left unchanged the law and procedure of the Province. The Revenue Courts of all grades would be special Courts of law for the trial of particular cases as long as it appeared to the Governor General in Council expedient that this deviation from the ordinary system should continue.

Opportunity was taken at the same time to enlarge the period of limitation, within which suits before these Courts could be heard, for rights in property as distinguished from rights of cultivation.

The Motion was put and agreed to.

PARSEES' MARRIAGE AND DIVORCE BILL.

The Hon'ble MR. ANDERSON introduced the Bill to define and amend the law relating to Marriage and Divorce among the Parsees, and moved that it be referred to a Select Committee, with instructions to report in six weeks. He said :—

"I have the honour, Sir, to submit the Bill which I recently received permission to introduce for defining and amending the Laws relating to Marriage and Divorce among the Parsees. I will first explain as briefly as I can the principal provisions of the measure.

In the first place the Bill prescribes the form in which Parsee marriages shall be celebrated, and provides that the parties shall not stand to each other within the prohibited degress of consanguinity and affinity. In the first draft of the Parsee Code those degrees were stated, but as there is no doubt and no dispute regarding them, they have now been omitted, and it will be for the tribunal which will hereafter have cognizance of all cases arising out of Parsee marriages to determine what are, according to Parsee usage, the prohibited degrees. The Bill next provides for the due registration of Parsee marriages, and it will be sufficient for me to state upon this point that the provisions are taken from the English law upon the subject. It then details the grounds on which the dissolution of marriages may be permitted. These may be resolved into six divisions :—

1. Transportation for Life.
2. Lunacy at the time of marriage.
3. Desertion for seven years.
4. Impotency.
5. Change of religious belief after marriage.
6. Adultery.

It is also provided that cruelty shall be a ground on which a woman may obtain a judicial separation.

The measure proceeds to enact that in certain cases alimony should be granted to the divorced or judicially separated wife, and it also recognises and provides for suits for restitution of conjugal rights.

For the disposal of all cases arising out of this Act, and for the due enforcement of the obligations and duties connected with the marriage union, a special tribunal is provided. For this purpose the ancient institution of the Parsee Panchâyat is revived, and is invested with full powers for the investigation and decision of matrimonial suits among Parsees. Rules are laid down for the examination of present and absent witnesses, and for the preservation of an adequate record of the investigation. Applications for the interference of the Panchâyat are to be made in writing, and any false statement in such application will render the applicant liable to the penalties prescribed for giving or fabricating false evidence. The due performance of its duty by the Panchâyat is secured by granting an appeal from its decisions to the High Couts of the respective Presidencies, on the ground of such decisions being contrary to law or to usage having the force of law, or on account of substantial error in the investigation of the case.

It is intended that there shall be a Panchâyat, not only in the Island of Bombay, but in any district in which Parsees in any considerable number reside. The Bill provides that this Panchâyat shall be elected according to rules which shall be sanctioned and approved by the local Governments. I had at one time contemplated that provision should be made in the Act itself for rules as to the qualifications of electors and other similar questions, but I have thought it better to leave the matter, as one of executive administration, to the local Governments. But this view is, of course, subject to any modification which may be deemed advisable by the Select Committee.

There is one other point to which I should briefly allude. Provision is made that the Presidency of the Panchâyat for the Town and District of Surat shall be hereditary in the family of Khursidji Dodabhai, Dawur of the Parsees of Surat. This provision is made because the office of Dawur, which may be translated spiritual Judge, has been held for centuries under adequate "parwânas" by this family. It is doubtful to what territorial extent the authority of the Dawur was acknowledged, but there can be no doubt that it has always been respected in Surat, and recognised by the Nâwabs of Surat and by the British Government. The claims of the present Dawur are commensurate rather with the former than the present relative importance of Surat; but the Government of Bombay has considered that it will be a fair solution of the difficulties which the claim presents if the Presidency of the Surat Panchâyat be hereditarily vested in this family. In this view I entirely concur, and I should mention that the family has another and somewhat curious claim on the consideration of the British Government. The Council is well aware that Surat was the first place in which a British Factory was established. The new Power encountered, during the early part of its existence, very powerful opposition from the Portuguese and Muhammadans, and a very doubtful support from the Dutch. The supplies of the English were cut off by the intrigues and hostilities of their rivals, and the Factory would have been reduced to the greatest straits had not the ancestor of the present Dawur contrived to supply it secretly with provisions and water. The Dawur then obtained the name of the Modí, or supplier of provisions, a name retained by the family to the present day. I have seen a minute written at the close of the last century by the Hon'ble Jonathan Duncan, Governor of Bombay, in which he alludes to some dissensions and disturbances which occurred at Surat in 1757 and speaks of "the English Modí's nephews having been mortally wounded by the Sídí's people from the Castle." It will thus be seen how entirely, more than a hundred years ago, this family had thrown in its lot with the British Government. I think, then, that a recognition of the position of the Dawurs of Surat is not only in itself most just and politic, but it is also a becoming tribute by the great British Government to a family whose ancestor rendered an important service to it when that Government was stru[illegible]ling into existence.

I ha[illegible]iefly stated the provisions of the Bill wh[illegible] have the honour to submit, and [illegible] offer a few explanatory remarks [illegible] those provisions. I have stated that dese[illegible] seven years constitutes a ground for [illegible]his provision I regard as justified by a [illegible] the English and Scotch Law. By the Stat[illegible] of 1857, desertion for two years is regarded as [illegible]ound for judicial separation. By the S[illegible] Law desertion for four years is regarded as

a ground for divorce. Bearing these systems in view, the proposed Law may be said to carry out the English Law if not to a logical, at least to a legal conclusion, while at the same time it is not so severely stringent as the Scotch Law.

Next, as to change of religion after marriage being constituted a ground of divorce. I think this provision, which embodies the view of the Government of Bombay, is a happy compromise between the extreme demand of the Parsees on the one hand, that any marriage contracted by one of their community with one professing another creed shall be *ipso facto* null and void, and the scruples of those on the other hand who regard marriage as a contract which can only be dissolved by death or by the commission of adultery by the woman. The Parsees urge, on behalf of their extreme view, that marriage is not regarded by Zoroastrians as a civil contract simply, but as being of the nature of a religious rite, and that a marriage of a Parsee with one of another faith cannot be celebrated. If a Parsee Priest were to solemnize such a marriage, his act would be irregular and invalid. But the answer to this is obvious. No one would wish to compel a Parsee Priest to solemnize such a marriage. No one would insist that a Parsee who had contracted such a marriage should still be regarded by his countrymen as a Zoroastrian. But the Legislature can only see in the union a civil contract, and it cannot consent to bastardize and to deprive of their legal rights the issue of such a marriage, entered into with full knowledge by both parties, according to the forms prescribed by the religion of the man or of the woman. On the other hand, with respect to a change of religious faith after marriage, there is, I think, great weight in the argument of the Parsees that marriages are only solemnized amongst members of their community, on the full understanding that both the parties profess, and always will profess, the religion of Zoroaster. A violation of this condition should, they urge, render the marriage voidable at the instance of either party. They state that, in any case of a change of religion, the parties would immediately separate, and they consider that if such separation occurs, it is better that there should be a dissolution of the union rather than that the parties should be tempted to immorality by the enforcement of a practical widowhood or widowerhood.

Next, as to adultery. The proposed law goes a step further than the English law on this point. The Council is aware that it is one of the points of difference between the Jewish and the Muhammadan law, that by the former divorce was never granted at the instance of the woman. The Muhammadan law, on the other hand, grants divorce to the woman on the ground of cruelty, and for other causes. The law of England, in its most recent enactment on the subject, following the Mosaic precedent, only gives a divorce for adultery under certain aggravating circumstances. The usage of the Parsees assimilates rather with the Muhammadan practices, and it is accordingly pro[illegible] that a divorce shall be granted to the woma[illegible] ground of adultery by her husband. [illegible] are two provisions to which allusion sho[illegible] for a moment be made. First, that the a[illegible] which gives the wife a right to a divorce [illegible] adultery with a courtezan; second, the rule [illegible] stated is qualified by the provision that, if t[illegible] courtezan be openly brought to reside in the hu[illegible] band's house, the right of judicial separation accrues to the wife. If these provisions be carefully considered, it will be found that they bring the spirit of the proposed law very nearly into unison with the spirit of the English law.

Proceeding from the examination of details to the consideration of the general Bill, I would take this opportunity of alluding to a difficulty which has occurred to the disciplined mind of my hon'ble friend Mr. Muir, and which he has had the kindness to communicate to me. He is reluctant as an English Legislator to be responsible in any degree for, or to extend his sanction in any manner to, usages which are inconsistent with his own ideas of right and wrong. This is not a difficulty which presents itself to my mind, but I can very easily understand that it may weigh heavily on the feelings of others. I shall propose, therefore, in Committee to declare in the preamble, as I have already done in the Statement of Objects and Reasons, that the Bill is prepared entirely at the instance of the Parsees, and in consonance with Parsee feelings and usages, thus carefully providing that no sanction is intended to the character of such usages by a British Legislature. At the same time I feel bound to declare that, if for the words "such marriages shall be solemnized according to the Parsee form commonly called "Asírvád" were substituted the words, shall be solemnized according to the form prescribed in the Book of Common Prayer; and if for Panchá-yats were substituted the words "Spiritual Courts," I do not think there is a provision in the Bill which has not in substance, at some time or other, been enacted by Christian Legislatures for the government of Christian subjects.

I stated on a former occasion that the necessity for this measure had been demonstrated by a decision of Her Majesty's Privy Council in 1856, which left the Parsees without any tribunal for the vindication of obligations arising out of the marriage union. But the necessity for legislation had long been foreseen. In 1837 Sir John Awdry, who was not only a consummate Judge, but a scholar of large and liberal views, a member of that distinguished society, the fellows of Oriel, who during the present century have exercised so remarkable an influence on English thought, expressed himself as follows in a letter addressed to a leading Parsee gentleman:—"I quite concur in your wish that the Pancháyat may be placed on a footing which will enable that body still to command the respect of your nation; that it should be invested with some definite authority in Ecclesiastical and Matrimonial questions. As the subject is a very delicate one, I will only advert to one point which is connected with the subject of inheritance. I hope that it will be empowered to decide in such mode as the Civil Courts can recognise on the validity of all marriages between Parsees. An enactment that on these points embraced the usages of Parsees should have the force of Law would, I think, be desirable." Similar views to these were expressed in 1843 by Sir E. Perry, another distinguished Judge. And in the present day, the claims of the Parsees have found their ablest [illegible]vocate in a third Judge, Sir Joseph Arnould.

Supported, then, by the high reputations of these [illegible]nent Jurists, Sir John Awdry; Sir E. Perry, [illegible] Sir J. Arnould, I think I may appeal with confidence to the justice of the assembly which I have now the honour to address. The Parsees will day by day prove themselves more efficient

as an agency by which the civilization of the West will be able to influence the destiny of this magnificent country. I would recall to the Council the fact that, above a thousand years ago, when the Fire-worshippers, driven from their native country, sought a refuge in India, they received from one whom we might term a Barbarian Prince not only the bread and salt of Oriental hospitality, but the liberty of independent occupation and permission for the free exercise of the observances of their ancient faith. We have before us a class of our fellow subjects who ask this Council to save them from moral degradation. The remnant of a great historic race have, by the operation of our legal tribunals, been left, in respect to a most important relation of life, without law. They have not revelled in the base license thus afforded; they cleave to the purer instincts of man's nobler nature. Much as all who know the Parsees must applaud their lofty public spirit, this demand so long, so patiently, so consistently urged, for the sanction of a moral law, has the greatest claim to our admiration. From the time when the Dawur of Surat afforded aid to our first Factory, to the time when Sir Jamsetjee Jeejeebhoy called on his countrymen to stand by the British Government with their fortunes as they would, if need were, with their lives, the Parsees have ever been faithful and loyal to our rule. They asked in the eighth century a poor Rana of Sanjem for the boon of religious liberty, and he granted it to them. They ask in the nineteenth century from the great British Government the vindication by enactment of their moral law. I trust it is not possible that they can ask in vain.

I have the honour to introduce the Bill, and to move that it be referred to a Select Committee, with instructions to report in six weeks."

The Hon'ble Mr. Cowie said that he acknowledged himself no friend to exceptional legislation for the creeds and classes of India, but he considered that the unvarying loyalty, integrity, and public spirit of the Parsee community had richly earned a title to such exception, and he therefore had pleasure in voting for this Bill.

The Hon'ble Raja Sahib Dyal Bahadur said that, although the Bill provided simply for the use of a Panchâyat, still, before making it over to the Committee, it should be submitted for the inspection of a member of the Parsee community that he might have an opportunity to note his objections.

The Hon'ble Mr. Muir said that, as his hon'ble friend the mover of the Bill had alluded to him, he would offer a few remarks upon the Bill. He confessed that he was at first in doubt as to the attitude which this Council should assume toward a measure which professed to lay down the law in respect of the social usages of a class of the community. But upon consideration he believed that a broad distinction might be drawn between the framing and enacting provisions of a social character for a particular class, and the recognizing of existing laws and usages, so as those laws and usages were not injurious to society or opposed to the grand principles of morality.

He thought that the Parsee laws and usages embodied in the Bill might rightly be decided to fall within this latter category. They were certainly greatly in advance of the laws and usages on the same subject of any other portion of the Native community. This was evident from the fact that no other class of Native society would venture to propose that the penalties of the Criminal Code for bigamy should be made applicable to them. But if this Council made the penalties of that Code applicable to the Parsees, it appeared to him absolutely necessary that an efficient provision be made for the registration of Parsee marriages, and for declaring under what circumstances divorce and remarriage were legal; otherwise either bigamy might be practised with impunity, or individuals might be exposed to punishment for bigamy, where bigamy by the laws and usages of the community had not really been committed. He believed that a Panchâyat, appointed by the people themselves, was the best possible tribunal for adjudicating such cases.

But it might be asked, why not allow the Punchâyat to be themselves the judge of what the local usages were; to determine the law as well as administer it. This seemed to be the purport of the remarks quoted by his hon'ble friend from Sir John Awdry, and other Judicial authorities. The Parsees were, however, scattered throughout the country, and there would be this objection to leaving the usages as to marriage and divorce undetermined, that difference of practice might arise in different quarters, and the decisions of one Panchâyat might clash with those of another.

He thought, then, that it was right to lay down what the social Code of the Parsees on the subject was, and then to leave the Punchâyats to administer it. The onus of deciding such cases, at least in the first instance, would thus be taken from our own Courts. He believed that the measures proposed in the Bill would tend materially towards the purity and welfare of the Parsee society.

But in saying this, it seemed to him that it should be made to appear in the drawing of the Bill that this Council was not prescribing social laws for the Parsees, but was only recognizing and declaring the ancient and well-known usages of that community. This might be secured, not only by the Preamble, but throughout the Bill, by reciting the rules for marriage and divorce, wherever they were embodied in the Act, as the ancient usages of the Zoroastrian faith, and the existing practice of the community, or if not of the whole community, at all events of the great majority. If this were done, he did not see that any objection on principle could be taken to Mr. Anderson's Bill.

There was but one other observation he had to make, and that was in the same line as the remark which had fallen from his hon'ble friend Rajah Sahib Dyal, who had preceded him; namely, that ample opportunity should be given to the Parsee community for stating, in reference to the provisions of the Bill, whether they were really so completely in conformity with the ancient law and existing usages of the Zoroastrians as to justify the Council in their adoption. He thought, therefore [illegible] weeks (as proposed by Mr. Anderson) was [illegible] short a time for the Committee to furnish [illegible]; and that a considerably longer period [illegible] be allowed in order that the Council [illegible] be placed in possession of the views of the [illegible] community in respect of their usages. [illegible] to these remarks he should not object to [illegible] his vote in favour of the motion.

The Hon'ble Mr. Harington said he regretted that the pressure of other duties had prevented him from giving to this Bill the careful considera-

tion to which its importance entitled it, or rather from reading through the whole of the voluminous correspondence which had at different times been printed on the subject of the Bill, and a careful study of which might have had the effect of removing some of the objections which he entertained to the Bill in its present form. These objections related chiefly, indeed he might say entirely, to the details of the Bill. He had no wish to oppose the introduction of the Bill or the motion for the reference of the Bill to a Select Committee, but as regarded the proposed instruction to the Select Committee, he agreed with Mr. Muir that it was not desirable that they should reduce by one-half the period for which, under the standing Rules of the Council, Bills were required to be published before the Select Committees to which they were referred could make their report, or before the Bills could be passed into law. The Rules of the Council had been framed after very full and careful consideration. None of the Rules was more important than the one to which he was now referring. The Select Committee which prepared the Rules, considered that it would not be right to fix a shorter period for the publication of Bills intended to apply to all parts of India, which was the case with the present Bill, than twelve weeks. If the Committee committed any error in the framing of this Rule, he thought it could not be said that it was on the side of prescribing too long a period for the publication of Bills. He had always been of opinion that no suspension of this particular Rule should be allowed unless upon the strongest grounds, or to meet a great emergency. When a Bill involved no question of principle, and related only to a small tract of country, its publication for six weeks or even a shorter period might be sufficient. This was the character of the Bill which he had just introduced regarding the Civil Courts of the Central Provinces. But the Bill which they were now considering was very different, and he thought that it ought to be published for the full period required by the standing Rules of the Council. Naturally the Parsee community were very anxious that the Bill should pass in either its present or some modified form on an early date, and he was sure that every Hon'ble Member was desirous of meeting their wishes so far as this could be done with propriety; but having waited so long, he did not think that they would be imposing any great hardship upon the Members of this community if they asked that the present Bill should be published for the usual period, although, as a consequence, the Bill might not pass into law during the present sitting of the Council, or until the Council again met for legislative purposes. As regarded divorce, the Parsee community was not in a worse position than the whole of the Christian community in India. At present there was no law under which a divorce could be obtained by a Native Christian, and European Christians were obliged to resort to the Courts in Europe in order to obtain a divorce. It was scarcely necessary for him to say th[illegible], in the great majorty of cases, this was [illegible]unt to a denial of the right, the expense b[illegible] there than most persons could bear.

He had no remarks to make at pr[illegible] part of the Bill which related to the [illegible] of Parsees. But he was bound to s[illegible] had looked in vain in the remarks with [illegible] hon'ble colleague had prefaced his motion [illegible] leave to introduce the Bill, in what had fallen [illegible] his hon'ble collegue to-day, and in the Statement of Objects and Reasons, which he might mention had reached him only yesterday, for anything which would justify their setting aside altogether the local Civil Courts, or the constituted tribunals of the country for the trial and decision of the important and delicate questions which would arise under the Bill, as was proposed, and devolving the trial and decision of those questions upon an irresponsible tribunal, which possessed no particular aptitude for the duty to be entrusted to it, on which public opinion would not be brought to bear, and which, as a body, would not be answerable to the Government for the way in which it discharged its functions. Indeed, as the Bill now stood, he had great doubts whether a member of a Panchayet, constituted under the Bill, would be a public servant, within the definition of the Indian Penal Code, and if he was not a public servant, as so defined, he would not be liable to the penalties prescribed by the Code for public servants guilty of any misfeasance. If the questions which would have to be determined under the Bill were questions of religion or caste or usage, or if they were questions peculiar to the Parsee community, there might be some reason for what was now proposed; but such was not the case. The questions were for the most part questions of fact common to all classes, and to be determined by evidence. He believed that he was right in saying that the grounds upon which a divorce might be obtained under the Bill had been imported into the Bill with one or two exceptions from the law of England, but having been so imported, the Bill, instead of making the questions which might arise on those grounds triable by the constituted Courts of the country—that was, by Courts presided over by Judges or qualified Officers who were in the habit of enquiring into, and deciding disputed questions of law and fact, and who alone were competent properly and satisfactorily to deal with such questions—proposed to leave their decision to what he must again call irresponsible tribunals possessing no special qualifications for the duty. Whatever might be the case in the Presidency Towns, it seemed to him very doubtful whether in the Mofussil the Panchayets to be constituted under the Bill would possess the necessary machinery for carrying out the provisions of the Bill, or for enforcing their orders. He would refer particularly to two of the grounds mentioned in Section 13 of the Bill on which a divorce might be obtained. The right determination of cases instituted upon those grounds would often depend altogether upon skilled testimony or medical evidence of a high order, and, in almost every instance, would involve very delicate enquiries; but how would Panchayets in remote Mofussil places be able to obtain such testimony on which any reliance could be placed, or to make such enquiries? Furthermore, if he rightly understood the Bill as intending entirely to oust the jurisdiction of the local Civil Courts or to deprive those Courts of all jurisdiction in cases arising under the Bill, it seemed to him that it would often happen that there would be no tribunals to which persons wishing to avail themselves of the provisions of the Bill, and to obtain a divorce on any of the grounds mentioned, would be able to resort. He believed there were very many places where Parsees were now or would hereafter be found residing, in which it would be impossible to convene a Panchayet in the manner provided by

the Bill. These persons would be excluded from the local Courts, and no provision was made for their going elsewhere. Indeed, as the Bill was worded, Panchâyets could not be convened under its provisions on this side of India or out of the Presidencies of Madras and Bombay. That this raose from inadvertence and was not intentional was clear from what his hon'ble colleague had said on the subject of the local Governments and the powers to be exercised by them under the Bill; but he had thought it right to notice the circumstance.

He observed that the Bill made a change of religion a ground for a divorce. Their hon'ble colleague told them that it was an understood thing amongst Parsees, that if either party changed the religion which was common to them both at the time of their marriage, the change would be a ground for the dissolution of the marriage. If this was the understanding, or if such was Parsee usage, neither party could complain of its being acted upon, and in this respect the present Bill was not open to the same objection which appeared to him to exist to the Bill of his hon'ble colleague, Mr. Maine, relating to the remarriage of Native Converts to Christianity. As that Bill applied also to Parsees, he did not feel certan that the two Bills might not conflict, or that they could properly co-exist in respect of the provision to which he had just referred.

As regard to the Town and District of Surat, it might be quite proper that the Office of President of Panchâyets convened there under the Bill should be held in the manner provided in the 28th Section, supposing the senior representative of the family named was of age and otherwise competent; but if he was a child or of weak intellect or otherwise unfitted to be President, he ought not to hold the office, and some other person should be appointed in his room. The Bill should provide for such a contingency. Stress had been laid upon the provision made in the Bill for an appeal to the High Court; but the appeal was to be allowed only on very special grounds, and he did not see how the High Court could properly deal with the misconduct of a Panchâyet or any of its members, committed, it might be, at the other end of the Presidency to which the jurisdiction of the Court extended. He would not notice further the details of the Bill at this time though he might mention that he understood that differences of opinion existed amongst the Parsees themselves, as to some of the provisions of the Bill. He could not conclude his remarks without expressing an earnest hope that the Select Committee, to which the Bill might be referred, would restore the jurisdiction of the Civil Courts, or devolve upon them the duty of administering the law, whatever form it might take. The Civil Courts might be allowed to call in Panchâyets, constituted as proposed, as jurors or assessors, and to avail themselves of their services in either of those capacities. In this way they could be legitimately employed and might be most useful. He most entirely concurred with his hon'ble colleague in all that he had said to-day and on former occasions of the intelligence, advanced civilization, loyalty and general good conduct of the Parsee community, as well as of their munificent donations to charities and other benevolent or public objects. These had been more than Royal. He readily admitted that the Parsee Community was entitled to the fullest consideration from this Council, but he thought that the Council should show its consideration for that community by giving it, not bad, but good laws. He could not bring himself to believe that the part of the Bill relating to divorce, to which his remarks were intended to apply, would, as the Bill was now framed, fall within the latter category.

The Hon'ble Mr. MAINE suggested that his hon'ble friend should omit any mention of the period within which the report was to be made; the result would be that the Committee would report whenever it felt itself in a position to do so.

The Hon'ble Mr. ANDERSON:—"I willingly adopt the suggéstion of my hon'ble friend Mr. Maine. With respect to what has been urged by the Hon'ble Rájá Sáhib Dyál, the Hon'ble Mr. Muir, and the Hon'ble Mr. Harington, I trust the Council will bear with me if I offer a few words in reply. I would explain that this Bill is the Bill of the Parsees themselves, that they have pressed it upon the attention of the Legislature directly for five years, and indirectly for a much longer period. Its substance, as a part of the Parsee Code, was brought before the former Legislative Council and referred to a Select Committee. That Committee considered that sufficient information was not before it, and suggested that further investigation should be held. The Government of India recommended to the Government of Bombay that a Commission should be appointed thoroughly to examine and report on the whole subject. The Government of Bombay appointed a Commission of which two Parsee gentlemen of very high character, and the Hon'ble Mr. Newton, a Judge of the High Court, who has been upwards of twenty years in India, who knows the Parsees as intimately as the Hon'ble Mr. Harington knows the Bengalees—I beg pardon, the inhabitants of the North-West Provinces—were Members, and Sir Joseph Arnould was President. This Commission examined many witnesses and considered many documents: they referred some doubtful questions to Professor Haug, perhaps the most profound scholar in Zend literature in the world: they had repeated discussions, and at length submitted, what the Government of Bombay termed, a lucid and exhaustive report, for which they received the cordial thanks of Her Majesty's Secretary of State. The subject again came before the Government of India, again before the Secretary of State; no opposition has ever been expressed by these high authorities to the grant of the prayer of the Parsees relative to marriage and divorce, and the present Bill has now been introduced in accordance with the opinion of the Secretary of State. To ask the Parsees if they have any objection to the Bill, is to convert them in to a *ludibrium*. You might as well ask the opinion of the Judges at Westminster as to the propriety of Magna Charta. I would state for the information of my hon'ble friends, that the Parsees in Bombay have co[illegible]uted a Law Association which has prepared [illegible], which has gone over all its provision[illegible] and again, and which has weigh-[illegible] with painful scrupulosity. They have as[illegible]ore than this Bill, for instance, that the [illegible]s of betrothals should be vindicated, [illegible]rtainly will not be willing to take less. [illegible]herefore, that the Council will not perpetra[illegible]he cruel mockery of postponing the final co[illegible]tion of this measure in order that the

Parsees may have longer time to consider its provisions.

My Hon'ble friend Mr. Harington has stated that there is a difference of opinion among the Parsees themselves as to this measure. I must assure the Council that the Hon'ble gentleman is under a misapprehension. There is some difference of opinion among them as to the part of their Draft Code relative to inheritance, but none as to the part relative to Marriage and Divorce, which is alone included in the present measure.

He has also urged that this measure does not consist with my hon'ble friend Mr. Maine's Bill for the remarriage of Native Converts; that they cannot both be enacted. I submit that they can; they are perfectly distinct. Under Mr. Maine's Bill, permission to remarry is granted at the instance of the Convert: under the present Bill, at the instance of the Unconverted.

Then my hon'ble friend urges that the Civil Courts should have jurisdiction in suits under this Bill. To this I would answer, first, that appeal is granted from the decisions of Panchâyats to the High Courts, not only on legal and technical grounds, but on the ground of substantial error in the investigation. But beyond this, I must submit that the Panchâyat is a far more appropriate tribunal for the trial of these domestic and delicate suits, than Law Courts presided over by strangers. Our Civil Courts have quite enough on their hands, without bringing suits of this kind on their files. What is to be gained by compelling Parsees to bring their suits into our Courts, by obliging them to unveil the secrets of domestic life? I have always regarded the Divorce Act of 1857 as a most beneficial measure; but I think any man of right feeling would prefer that if possible the proceedings of the Court should not be subject to their present revolting publicity. Is it just or politic to subject men and women of another creed and race to such a system if it can reasonably and justly be avoided? It cannot be supposed that the Parsees, after a residence in India of a thousand years, have not imbibed from the races around them some of the peculiar jealousy of Hindús and Muhammadans as to interference with domestic life.

My hon'ble friend has made some objections to certain points of detail in the Bill, which can be better considered in Committee, and which, therefore, I will not notice now. But as to his wish to postpone, this Bill, under the delusion of further inquiry being necessary, I must state that such a course is equally unjust and impolitic, and can only be regarded by the Parsees with mingled scorn and indignation, and bring nothing but discredit on this Council. I am always bound to speak with respect of my hon'ble friend Mr. Harington: I have had many opportunities of admiring in this Council, and especially in the Committees of this Council, his great ability and many accomplishments, but [illegible]rable as his ability is, I fervently trust it will [illegible] prevail on the present occasion."

The Hon'ble Mr. Harington said he [illegible] the permission of His Excellency the Pre[illegible] say a few words in reference to the [illegible] which had fallen from their hon'ble [illegible] league, in replying to the objections which had been taken by himself and other Hon'ble [illegible] bers to the suspension of the Rule which required the publication of Bills for a period of twelve weeks. He did not wish to impute blame to his hon'ble colleague, but he must be allowed to say that, for any delay that might occur in the passing of the Bill, his hon'ble colleague and not he (Mr. Harington) was responsible. The Bill having been prepared for so long a time as they were told was the case, why, he would ask, was it not published during the recess under the rule which admitted of such publication, or why was the Bill not introduced immediately after the Council met, now some weeks ago, or why had the introduction of the Bill been deferred until this late period, when, in order to its being passed during the present meeting of the Council, it had been thought necessary to ask that recourse should be had to the exceptional measure of suspending the rule which fixed the time for the publication of Bills. He must repeat that if, owing to the observance of the standing Rules of the Council, the Bill should not pass during the present meeting of the Council, the responsibility of the delay would rest rather with his hon'ble colleague than himself, by reason of the late period at which the Bill had been introduced.

The Hon'ble Mr. Anderson:—"I cannot for one moment admit the justice of the Hon'ble Member's remark. He seems to forget that the class of our fellow subjects, which is interested in this discussion, dwells at a very great distance from Calcutta. I could do nothing in relation to this measure until my hon'ble friend Mr. Maine had introduced the Indian Civil Code. I then stated that I proposed to separate the part of the Parsee Draft Code which related to marriage and divorce from the part connected with inheritance and succession, and to bring on the former as a distinct measure on an early occasion. My hands were, however, still bound until I could ascertain whether the Parsees approved of this course. On receiving from the President of the Parsee Law Association an expression of his approval, I lost no time in preparing and introducing the measure. I did not express any surprise that my hon'ble friend Mr. Muir should consider six weeks too short a time for the consideration of the Bill by a Select Committee, but I did express, and do express, the greatest surprise that suggestion for further delay should come from the Hon'ble Mr. Harington, who knew well how long the Parsees have urged their claims to relief on the attention of the Government of India. The Hon'ble Member also knows how fully and entirely the attention of the Committees of the Council has been occupied with the Code of Civil Procedure, with the Indian Civil Code, with the Grand Jury Bill, and other measures, and how impossible it would have been for a Committee to enter on the consideration of this Bill before the present time, had it been possible, which it was not, for me to have brought forward the measure at an earlier period. I cannot, therefore, in the slightest degree, admit the justice of my hon'ble friends' strictures.

The Hon'ble Mr. Muir said, he begged to make but one remark in explanation of what had fallen from his hon'ble friend (Mr. Anderson) to the effect that a lengthened correspondence had taken place on the subject of this Bill. The correspondence had not been circulated with the Bill, nor

noticed in the Statement of Objects and Reasons, and he certainly had no cognizance of it.

The Motion was put and agreed to.

RURAL POLICE (N. W. PROVINCES) BILL.

The Hon'ble Mr. MUIR postponed the presentation of the report of the Select Committee on the Bill to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces.

The following Select Committees were named :—

On the Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces—The Hon'ble Messrs. HARINGTON, MAINE and CUST.

On the Bill to define and amend the law relating to Marriage and Divorce among the Parsees—The Hon'ble Messrs. HARINGTON, MAINE, and ANDERSON, the Hon'ble the Mahárájá of Vizianagram, and the Hon'ble Messrs. MUIR and CUST.

The Council then adjourned.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept., (Legislative).*

CALCUTTA,
*The 20th January* 1865.

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## Home Department.

### LEGISLATIVE.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 29 OF 1864.

*A Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.*

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows :—

Short title.

**1.** This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause. Assistant Commissioner.

**2.** In this Act—

"Assistant Commissioner" shall include Extra Assistant Commissioner.

Grades of Courts in the Central Provinces.

**3.** There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1). The Court of the Tahsildar of the first class.

(2). The Court of the Tahsildar of the second class.

(3). The Court of the Assistant Commissioner of the first class.

(4). The Court of the Assistant Commissioner of the second class.

(5). The Court of the Assistant Commissioner of the third class.

(6). The Court of the Deputy Commissioner.

(7). The Court of the Commissioner.

(8). The Court of the Judicial Commissioner.

Local Government may declare grade to which a Tahsildar or Assistant Commissioner belongs.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Local Government may give Naib Tahsildars jurisdiction up to rupees fifty.

**5.** The Local Government shall also have power to invest such Naib Tahsildars as it shall think competent, with jurisdiction in suits for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage or demand does not exceed in amount or value the sum of fifty rupees.

Jurisdiction of Court of Tahsildar of the first class.

**6.** The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the second class.

**7.** The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

**8.** The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

**9.** The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

**10.** The Court of the Assistant Commissioner of third class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

**11.** The Court of the Deputy Commissioner shall have power to try and determine suits of every description exceeding five thousand rupees in value or amount, and to hear appeals from the decisions, and (where an appeal is allowed by the Code of Civil Procedure), from the orders of the Courts of the first, second, third and fourth grades respectively

Jurisdiction of Court of Commissioner.

**12.** The Court of the Commissioner shall have power to hear and determine appeals from the original decisions passed in suits and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the fifth and sixth grades.

Jurisdiction of Court of Chief Commissioner.

**13.** The Court of the Chief Commissioner shall have power to hear and determine applications for a special appeal as provided in the Code of Civil Procedure from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Court in which suit shall be instituted.

**14.** Every suit shall be instituted in the Court of the lowest grade competent to try it. Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Transfer of suits from subordinate Court to Deputy Commissioner's Court.

**15.** It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to him, and to try such suit himself or to refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same.

Chief Commissioner or Commissioner of a Division may order transfer of suits from one subordinate Court to another.

**16.** It shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner shall be transferred to any other such subordinate Court competent, in respect of the value of the subject-matter of the suit or appeal, to try the same.

Suits for immoveable property situate in different Districts.

**17.** If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

**18.** If the Districts within the limits of which the immoveable property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Appeal to lie from all decisions except when expressly prohibited.

**19.** Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Construction of District Court as used in Code of Civil Procedure.

**20.** The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Commencement of Act.

**21.** This Act shall commence and come into operation on the day of 186

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STATEMENT OF OBJECTS AND REASONS.

The jurisdiction now exercised by the Civil Courts in the Central Provinces is derived, not from any express provision of law, but from orders passed from time to time by the Executive Government. These orders, bearing a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called in question; but it is felt that the constitution of the Civil Courts in the Central Provinces is not so satisfactory as could be desired; and the Chief Commissioner having requested that the Government of India will be pleased to confer Civil jurisdiction in suits of a small amount upon a class of Officers who have not hitherto exercised any of the functions of a Civil Judge, which cannot be done without a law, it seems desirable that, instead of confining the scope of any Bill introduced to this single object, the opportunity should be taken to place the Civil Courts generally of the Central Provinces on a legal basis similar to that upon which the Courts in British Burmah were placed by Act I of 1863, and to give them a similar legal status. This is the object of the Bill, which follows the form of the British Burmah Act in so far as it defines the jurisdiction of the Courts to which it refers.

H. B. HARINGTON.

*The 5th January* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India*
*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in six weeks :—

No. 30 OF 1864.

*A Bill to define and amend the law relating to Marriage and Divorce among the Parsees.*

Whereas it is expedient to define and amend the law relating to Marriage and Divorce among Parsees; It is enacted as follows :—

Short title.

**1.** This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Parsee."

"Parsee" means or applies to a person professing the religion of Zoroaster, and domiciled in British India.

"Priest."

"Priest" includes Dastúr and Mobed.

"Marriage."

"Marriage" shall mean a marriage between Parsees contracted after the commencement of this Act.

"Section."

"Section" means a Section of this Act.

"High Court"

"High Court" means the highest Civil Court of appeal in any part of British India.

"Local Government."

"Local Government" means the person authorized to administer Executive Government in any part of British India or the Chief Executive Officer of any part of British India under the immediate administration of the Governor General of India in Council when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government.

"Number"

Words in the singular number include the plural, and words in the plural number include the singular.

"Gender."

Words importing the masculine gender include females.

Requisites to validity of Parsee marriages.

**3.** No marriage shall be valid, if the parties contracting the same are related to each other in any of the degrees of consanguinity or affinity prohibited by common custom among Parsees, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "A'sírvád" by a Parsee Priest in the presence of two or more Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee under the age of twenty-one years, the consent of his father or guardian shall have been previously given to such marriage.

Registry of marriages.

**4.** Every marriage shall, within eight days after the solemnization thereof, be registered in the book contained in the Schedule to this Act, in a book to be kept by a Registrar who shall be some proper person appointed for the purpose by the Parsee Panchayat of the Zilla or District in which the marriage shall have taken place; and every entry of a marriage in the said book shall, within the space of eight days from the time of such marriage, be signed by the persons following, or (that is to say), the said Registrar, the contracting parties, the fathers or guardians of such (not being of full age), the Priest solemnizing the marriage, and the witnesses present at the same; and it shall be incumbent upon the contracting parties respectively, if they shall have attained the age of twenty-one years, and upon the father or guardian of such contracting party (if any) as shall not be then of full age, to give notice to the Registrar of the marriage having been so contracted, and to cause the marriage to be duly reigstered in his said book upon payment to him of the fee of two rupees, to the payment of which fee both the said contracting parties shall, in equal proportions, be liable.

Declaration by persons married.

**5.** Every Parsee, having attained the age of twenty-one years at the time of his or her marriage, shall, immediately upon the said entry thereof being so made in the said register, make and subscribe in the presence of the Registrar, the following declaration below the entry of the marriage in the said register :—

Form of declaration by person married.

"I hereby solemnly declare that the above registry is correct, and that my marriage with did take place as therein mentioned, and was duly solemnized with my consent."

A. B.

*Made and subscribed at this day of before me.*

E. F.
Registrar.

But no husband or wife not having attained the said age at the time of such marriage shall make or subscribe such declaration.

Declaration by father or guardian of infant married.

**6.** The father or guardian of every Parsee who shall not, at the time of his or her marriage, have attained the age of twenty-one years, shall make and subscribe in the presence of the Registrar the following declaration below the entry of the marriage in the said register :—

Form of declaration by father or guardian.

"I do hereby solemnly declare that the above registry is correct so far as regard the particulars therein relating to the said and me, this declarant, and that the marriage therein mentioned was duly solemnized with my consent."

A. B.
Father or guardian of C. D.

*Made and subscribed at this day of before me.*

E. F.,
Registrar.

Marriage register to be open for public inspection.

**7.** Every register of marriages shall, at all reasonable times, be open for public inspection, and certified extracts therefrom shall, on application, be given by the respective Registrars, on payment to them by the applicants of two rupees for each such extract; and every such register shall, without further proof, be received in all Courts to which this Act extends as evidence of the truth of the statements therein contained, unless and until the same shall be proved to be false.

**8.** Every person required by this Act to make and subscribe any or either of the foregoing declarations, and wilfully omitting or neglecting so to do, shall, on conviction thereof before any Magistrate or other Court having jurisdiction in the place where he may reside, be punished for every such offence with a fine not exceeding one hundred rupees; and every Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the ninth Section of this Act, shall, on conviction thereof before any such Magistrate or Court, be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to make declarations.

**9.** It shall not be lawful for any Parsee to contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorcement from such wife or husband, by sentence of a Pancháyat as is hereinafter provided; and every marriage which may be hereafter contracted contrary to the provisions of this Section shall be deemed void. Every Parsee who shall, during the life-time of his or her wife or husband, contract any marriage without such lawful divorcement from such wife or husband, shall be subject to the penalties provided in the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

Re-marriage save after divorce unlawful during life-time of first wife or husband.

**10.** If a Parsee husband or wife shall at any time after marriage be transported or deported for the term of his or her natural life by the sentence of any competent legal tribunal, such marriage shall after the space of one year next following the passing of such sentence, be voidable at the election of his or her wife or husband, such election being first duly notified by the said wife or husband to the Pancháyat of her or his place of residence.

Voidability of marriage in case of transportation for life.

**11.** If a Parsee shall have been or be a lunatic or of habitually unsound mind at the time of his or her marriage, such marriage shall be at any time voidable by the Pancháyat of his or her last place of residence at the instance of his or her wife or husband, upon proof, to the satisfaction of the same Pancháyat, that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues.

Voidability of marriage in case of lunacy or mental unsoundness.

**12.** If a Parsee husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of within that time by such his or her wife or husband as being alive, their marriage shall be voidable by the Pancháyat of his or her last known domicile at the instance of the said wife or husband of such absent husband or wife, upon proof of the aforesaid facts being made to the satisfaction of the same Pancháyat.

Voidability of marriage in case of absence for seven years.

**13.** In any case where the husband shall be unable to consummate [illegible] marriage by reason of im[illegible]tency of a permanent and incurable description, or where consummation of the marriage has not taken place in consequence of the wife's malformation, such marriage shall be voidable by the Pancháyat of his or her last known domicile at the instance of the other party to such marriage, upon proof of the aforesaid facts being made to the satisfaction of the same Pancháyat: Provided that the husband shall not set up his own impotency as a ground for nullifying his marriage.

Voidability of marriages on the ground of impotency.

**14.** A marriage in case either of the parties thereto shall have changed his or her religion shall be voidable by the Pancháyat of his or her last known domicile, at the instance of the other party to such marriage, upon proof of such fact being made to the satisfaction of the same Pancháyat.

Voidability of marriage in case of conversion.

**15.** It shall be lawful for any Parsee husband to present a petition to the Pancháyat of the proper domicile that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and it shall be lawful for any Parsee wife to present a petition to the Pancháyat of the proper domicile, praying that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery or fornication with any married or unmarried woman, not being a prostitute, or of bigamy coupled with adultery, or of rape, or of an unnatural offence.

Husband's petition for dissolution of marriage.

Wife's petition for dissolution of marriage.

**16.** If a Parsee husband treat his Parsee wife with such cruelty or personal violence as to render it in the judgment of the Pancháyat or other lawful tribunal improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation *a mensâ et thoro*, and her husband shall, in such a case, provide her with separate maintenance, so long as she continues of chaste conduct, according to his means and rank in life; but no divorce shall be granted for cruelty, except in the case specified in the fifteenth Section.

Grounds of judicial separation *a mensâ et thoro*.

**17.** Applications for divorce or for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the Pancháyat of the town or district in which the respondent resides or last resided, which Pancháyat is hereby authorized and required to hear and determine such petition; and on the said Pancháyat's being satisfied of the truth of the allegations contained in such petition, and that the offence therein set forth has not been condoned, and tha[illegible] the said husband and wife are not colluding to[illegible] obtain a divorce, and that the petitio[illegible] not connived at, or been party to, the [illegible]ence, and that there has been no unnecessary [illegible]roper delay in presenting the said petition, [illegible] that there is no legal ground why the same [illegible]ould not be granted, then and in such case, but [illegible]t otherwise, the said Pancháyat shall and may [illegible]cree such divorce or judicial separation accord[illegible]gly; and where any such application is made by the wife, may order the husband or secure to the wife out

Petition for divorce or judicial separation.

Alimony may be ordered.

of his property such gross or capital sum, or such monthly or periodical payments of money for any term not exceeding her life as, having regard to her own property (if any), her husband's said property, and the conduct of the parties, shall be deemed just, or make any other order in that behalf for alimony, which, regard being had to the circumstances aforesaid, shall be deemed just. And in case any such order shall not be obeyed by her husband, he shall be liable to action upon the same at her suit, and further to be sued by any persons supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Petition for restitution of conjugal rights.

**18.** Where a husband has deserted or (without lawful cause) ceased to cohabit with his wife, or shall hereafter so desert or (without lawful cause) so cease to cohabit, or where a wife hath deserted or (without lawful cause) ceased to cohabit with her husband, or shall hereafter so desert or (without lawful cause) so cease to cohabit, and the party so deserted or with whom cohabitation hath or shall have so ceased, shall apply to the Pancháyat of the District or place within which the other party may reside, by petition for the restitution of his or her conjugal rights, the said Pancháyat shall thereupon proceed duly to cite the party respondent to such petition, and duly to take evidence in that behalf and inquire into the allegations of such petition, and shall, upon being duly satisfied of the truth of the said allegations, and that there is no just ground why the said petition should not be granted, proceed to decree such restitution of conjugal rights accordingly. In case such decree shall not be obeyed by the party against whom it is given, he or she shall be deemed a wrong-doer, and liable in damages thereupon in an action on the case at the suit of the other party.

Parsee Pancháyat to try all questions under this Act.

**19.** The Pancháyat of any Town or District nominated and appointed in manner hereinafter mentioned shall have power and authority to hear, determine and adjudicate all cases and questions arising under this Act between Parsee inhabitants of such Town or District.

Pancháyat may examine parties and witnesses on oath and its decision shall be final.

**20.** The said Pancháyat shall have power to summon and examine both parties and their witnesses on oath or affirmation; and the decisions of such Pancháyats, if not reversed or altered on the appeal given by the twentythird Section shall be final, and shall be upheld by all legal tribunals; provided nevertheless that it shall always (after any final decree for a divorce, either by the Pancháyat or upon appeal, or after the expiration of the time hereinafter limited for an appeal, without an appeal, against any such decree for a divorce, having been presented) be lawful for the parties [illegible] hereby divorced to intermarry together [illegible] Act [illegible] and every witness duly summoned, who s[illegible] tentionally omit to attend at the time and p[illegible] cified in such summons, or depart from suc[illegible] before the time at which it is lawful for him to dep[illegible] or who shall intentionally omit to produce, or d[illegible] liver up any document which he may be legally [illegible] quired to produce or deliver up, or who shall re[illegible] to answer any question which he may be leg[illegible] required to answer, shall, on proof of the fac[illegible] before any Magistrate or Court having jurisdiction with respect to the offence, be liable to the punishment provided in Sections 174, 175 and 179 respectively of the Indian Penal Code, and all persons wilfully deposing or affirming falsely in any proceeding before the Pancháyat, shall be deemed to be guilty of the offence of giving false evidence, and shall be liable, on conviction before a competent tribunal, to all the pains and penalties attached thereto.

Mode of examination.

**21.** The examination of parties and of witnesses in any cause or proceeding under this Act shall be taken orally and openly in and by the Pancháyat in the presence and hearing and under the personal direction and superintendence of the said Pancháyat; and the evidence of each witness shall be taken down in writing, and the proceedings of the said Pancháyat shall be conducted and recorded in the vernacular language by the President, Secretary, or other Officer appointed for that purpose by the said Pancháyat. And every such examination shall be taken and recorded in the form of a narrative, and when completed shall be read over in the presence of the said Pancháyat and of the witness, and also in the presence of the party or parties or their representatives, and certified by the President of the said Pancháyat or any member thereof acting as President thereof for the time being. The Pancháyat shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

Examination of absent witnesses.

**22.** When the evidence of a witness is required who is not living in the Town or place where the said Pancháyat is held, or who is unable from sickness or infirmity or other cause to attend before the said Pancháyat, the said Pancháyat may authorize the Pancháyat of the place where the witness may be residing, or any one or more person or persons thereat resident, or may depute thither one or more of its own members or Officers to take down the examination of such witness on interrogatories or otherwise; and every such examination shall be taken down in writing, and shall be read over to and shall be duly certified by the persons so authorized to take the same; and shall form part of the record of the cause or proceeding in which it is taken. In every such case either party shall be entitled to be present in person or by representative at much examination.

Appeal to High Court.

**23.** An appeal shall lie from the decision of the Pancháyat to the High Court on the ground of the decision being contrary to some law, or usage having the force of law, or of a substantial error or defect in the investigation of the case which may have produced error or defect in the decision of the case upon the merits, or of any grave misconduct of the Pancháyat in relation to any of the matters aforesaid; provided that such appeal be instituted within three months after the decision of the Pancháyat shall have been pronounced.

On appeal, record and papers to be sent to High Court.

**24.** On an appeal being made to the High Court in conformity with the provisions contained in the twentythird Section, the Pancháyat from whose decision such appeal is preferred shall, upon receiving due intimation thereof, send to the said High

Court, with all practicable despatch, the record of the case, together with all material papers in the cause or proceeding, or such papers as may be specially called for by the High Court in that behalf.

Act not to apply to marriages solemnized before passing of Act.

**25.** Nothing herein contained shall apply to any marriage, or ceremony of marriage performed before the passing of this Act, or in any wise affect the same, whether by giving validity thereto, or by invalidating the same. And the validity or invalidity thereof respectively shall be, and continue to be, the same as it was at the time of the passing of this Act.

Form of application to Panchâyat.

**26.** Every application made to a Panchâyat under this Act shall be in writing and shall be subscribed by the applicant or his or her representative (if any). It shall also be verified at the foot by the applicant in the manner following or to the like effect :—

Form of verification.

"I (A B), the applicant named in the above application, do declare that what is stated therein is true, to the best of my information and belief."

Punishment for making false averments.

**27.** If any such application shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabrication of false evidence.

Number of Panchâyat.

**28.** The Panchâyat for adjudicating cases arising under this Act shall, for the Town and Island of Bombay, consist of twelve members, of whom one shall be President, and for other Towns or Districts of such number of members, not exceeding twelve and of whom one shall be President, as the Local Government may see fit to fix; and shall be elected, constituted, and appointed according to such Rules and Regulations, in regard to the qualifications of electors and members and other matters as may be hereafter sanctioned and approved of by the Governor in Council of the Presidency or place: Provided that in the Town and District of Surat the Office of President of of the Panchâyat shall be hereditary in the family of Khurshedji Dodabhâi deceased, Dawur of the Parsees of Surat, and shall be held by the person who shall for the time being be the senior representative, according to the Parsee law of inheritance, of the said Khurshedji Dodabhâi.

President of Surat Panchâyat.

Panchâyat may alter rules.

**29.** Any Panchâyat duly constituted and appointed as aforesaid shall have power to alter, vary, or amend such rules from time to time, subject to the confirmation of the Local Government, who shall determine and may alter the territorial jurisdiction of each Panchâyat, the limits of the jurisdiction so determined or altered bei[illegible] promulagated in the *Official Gazette*.

Commencement and extent of Act.

**30.** This Act shall commence and take ef[illegible] on the first day of July 1[illegible] and shall extend to all the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106.

THE SCHEDULE ABOVE REFERRED TO.

| Date and Place of Marriage. | Names of the Husband and Wife. | Condition at the time of Marriage. | Rank or Profession. | Age. | Residence. | Names of the Fathers or Guardians. | Rank or Profession. | Signature of the Officiating Priest. | Signatures of the Witnesses. |
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| | | | | | | | | | |

STATEMENT OF OBJECTS AND REASONS.

The object of the present measure is to enforce among the Parsee community the duties and obligations arising out of the marriage union. By a decision of her Majesty's Privy Council in 1856, it was ruled that the Supreme Court of Bombay on its ecclesiastical side, had no jurisdiction to entertain suits instituted by a Parsee wife for restitution of conjugal rights or for maintenance. It has been represented by a large number of Parsees, who from character and social position are regarded as leaders by their co-religionists, that bigamy has been introduced into their community, because, since the decision of the Privy Council, there has been no tribunal to vindicate the obligations of marriage, and none with authority to dissolve marriages on adequate cause being shown. Urgent petitions have therefore been addressed to the Government of India and to Her Majesty's Secretary of State for India, praying that, with respect to this most important relation of life, the Parsees may receive the sanction and protection of a legislative enactment.

The present measure renders bigamy by Parsees an offence, and subjects it to the penalties prescribed in the Penal Code. On the other hand it declares the grounds on which divorces may be granted. It gives jurisdiction for the vindication of obligations and duties arising out of marriages and for the dissolution of marriages, to the ancient institution of the Parsee Panchâyat. Appeal from the decision of the Panchâyats is allowed within a stated time to the High Courts of the respective Presidencies.

The measure has in substance been prepared by re[illegible]ntatives of the Parsee community.

H. L. ANDERSON.

[illegible]e 16th *January* 1865.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt of India, Home Department (Legislative).*

## HOME DEPARTMENT.

No. 989.

*Fort William, the 30th January* 1865.

NOTIFICATIONS.

Mr. Robert G. Currie, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year from the date of embarkation.

No. 990.

*The 1st February* 1865.

Mr. E. C. Bayley, Secretary to the Government of India, in the Home Department, having returned from the privilege leave granted to him under Notification No. 5225, dated the 8th November last, resumed charge of his office on the forenoon of this day.

A. HOWELL,
*Under Secy. to the Govt. of India.*

No. 1065.

*The 2nd February* 1865.

The Reverend Arthur Octavius Hardy has been appointed by the Right Hon'ble the Secretary of State to be a Junior Chaplain on the Bengal Establishment.

No. 1066.

Mr. H. Fraser, Head Master of the Kamptee School, is appointed to officiate as Inspector of Schools, Eastern Circle, Central Provinces.

No. 1067.

The Governor General in Council is pleased to invest the under-mentioned Tehseeldar, in the Central Provinces, with the powers of subordinate Magistrate of the 1st Class, described in Chapter II, Section 22 of Act XXV of 1861 :—

Ameer Khan, Tehseeldar of Dumoh.

No. 1068.

*The 3rd February* 1865.

The Governor General in Council is pleased to invest the following Officer, in the Central Provinces, with the powers of a Magistrate described in Section 22 of Act XXV of 1861 :—

Lieut. H. C. E. Ward, Assistant Commissioner.

No. 1069.

Third Class Native Doctor Nusrool Huqq is appointed to the Charitable Dispensary at Kyouk Phyoo, vice Native Doctor Lalla Kaleechurn, deceased.

No. 1070.

The under-mentioned Specifications of inventions have been filed, under the provisions of Act XV of 1859, in the Office of the Secretary to the Government of India, in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every Specification is open, at all reasonable hours, at the Office of the Secretary to the Government of India, in the Home Department, to public inspection, upon payment of a fee of one Rupee; a certified copy of any Specification will be given to any person requiring the same on payment of the expense of copying :—

No. 219.—Edward Dorset and John Remington Blythe, merchants of the city of London, for "improvements in machinery or apparatus employed for impregnating timber with solutions of sulphate of copper, creosote or other preserving materials."

No. 220.—J. Brown and T. Casser, Locomotive Superintendent and Locomotive Foreman, Sind Railway Company, for "Spark Arrester."

No. 233.—Henry Firman and James Matthew George Wyatt, College Street, Dowgate Hill, in the city of London, iron, tin plate, and metal merchants, for "improvements in the construction of buildings, such improvements being more particularly applicable to roofing and flooring the same."

No. 234.—Robert Wilson, Patricroft, near the city of Manchester, Engineer, for "improvements in and applicable to hydraulic and other presses and in steam engines and pumps for working hydraulic presses and raising fluids also in apparatus for hooping bales of cotton and other substances."

No. 235.—F. W. Sheilds, Civil Engineer, No. 3, Delahoy Street, Westminster, in the County of Middlesex, England, for "improvements in telegraphic posts."

E. C. BAYLEY,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

MILITARY.

No. 56.

*Fort William, the 30th January* 1865.

Assistant Surgeon F. H. O'Donel, M. D., in medical charge of the Meywar Bheel Corps, has obtained preparatory leave for one month to proceed to Bombay, from the 1st February next.

The G. O. dated 21st December, No. 244, is hereby cancelled.

No. 59.

*The 2nd February* 1865.

With reference to G. O. No. 8, dated 12th ultimo, Major A. M. Mackenzie, Commandant, Meywar Bheel Corps, and Superintendent of Hilly Tracts in Meywar, returned to his duties on the 31st December 1864.

POLITICAL.

No. 103.

*The 30th January* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to publish for general information the following Despatch from Her Majesty's Secretary of State for India :—

By order of His Excellency the Viceroy and Governor General in Council,

A. COLVIN,
*Offg. Under Secy. to the Govt. of India.*

POLITICAL. INDIA OFFICE,

No. 81. *London, 16th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I transmit herewith, for the information of your Excellency's Government, a printed copy

of Orders in Council, for the regulation of Consular Jurisdiction in the dominions of the Ottoman Porte,* and also with respect to the navigation of the Danube†

* Dated 30th November 1864.

† Dated 30th November 1864.

I have, &c.,

(Sd.) C. WOOD.

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At the Court at *Windsor*, the 30th day of *November* 1864.

PRESENT:

The QUEEN'S Most Excellent Majesty in Council.

Whereas by the Act of the Session of Parliament of the sixth and seventh years of Her Majesty's Reign (Chapter 94), "To remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had, or might at any time thereafter have, within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power and jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had, and now has, power and jurisdiction in the dominions of the Sublime Ottoman Porte; and by an Order in Council, bearing date the twenty-seventh day of August one thousand eight hundred and sixty, Her Majesty was pleased, by and with the advice of Her Privy Council, to make provision for the exercise of such last-mentioned power and jurisdiction:

And whereas by another Order in Council, bearing date the sixth day of January one thousand eight hundred and sixty two, Her Majesty, by and with the advice aforesaid, was pleased to order that all Rules, Orders, and Regulations, so made, and to be made, as therein mentioned, by a certain Commission established under the 15th and 16th Articles of the General Treaty of Peace signed at Paris on the thirtieth day of March one thousand eight hundred and fifty-six, should be binding and in force, and should have the force and effect of law, upon and against all British subjects and other persons subject to the jurisdiction of Her Majesty's Consuls, Vice-Consuls, and Consular Agents, within the dominions of the Ottoman Porte:

And whereas by another Order in Council, bearing date the twenty-first day of March one thousand eight hundred and sixty-two, Her Majesty, by and with the advice aforesaid, was further pleased to order that all Rules, Orders, and Regulations concerning the navigation of the River Danube, or concerning the conduct and government of Masters, seamen, or others, navigating the same, or concerning the imposition, levying, or payment of tolls or duties to be taken or levied in respect of the navigation of the said river, or concerning the imposition and enforcing of penalties for the breach of such Rules, Orders, and Regulations, respectively, or any of them, which had been at any time theretofore made and promulgated by the said Commission, should, from and after the date of that Order (except so far as the same might have been already duly confirmed by the said Order of the sixth day of January one thousand eight hundred and sixty-two, so as to make the same binding from the date thereof), be binding and in full force, and should have the force and effect of law, upon and against all British subjects and other persons subject to the jurisdiction of Her Majesty's Consuls, Vice-Consuls, and Consular Agents, within the dominions of the Sublime Ottoman Porte:

And whereas, by both such two last-mentioned Orders in Council, Her Majesty was further pleased to direct that, for the purpose of enforcing and carrying the same into effect, Her Majesty's Consuls, Vice-Consuls, and Consular Agents, exercising jurisdiction over British subjects within the dominions of the Sublime Ottoman Porte, should have, possess, and enjoy all and every the power, jurisdiction, authorities, rights, privileges, and immunities, which, in and by the said Order in Council, bearing date the twenty-seventh day of August one thonsand eight hundred and sixty, were or was vested in, or belonged to, or were or was exerciseable by, the Judge of the Supreme Consular Court of Constantinople, within the dominions of the Sublime Ottoman Porte: and that all the clauses, articles, and provisions of the said Order in Council of the twenty-seventh day of August one thousand eight hundred and sixty, so far as the same respectively were then in force and unrepealed, and so far as the same, or any of them, were applicable to such Rules, Orders, and Regulations as aforesaid, should apply and extend to the said Consuls, Vice-Consuls, and Consular Agents of Her Majesty, and to all acts, matters, and things whatsoever done by, to, or in respect of them the said Consuls, Vice-Consuls, and Consular Agents, respectively, under or by virtue of the said respective Orders of the sixth day of January one thousand eight hundred and sixty-two, and the twenty-first day of March one thousand eight hundred and sixty-two:

And whereas, since the dates of the said two last-mentioned Orders, the said Order in Council of the twenty-seventh day of August one thousand eight hundred and sixty, has been repealed; and the exercise of jurisdiction by Her Majesty's Consular Courts and Judges in the dominions of the Ottoman Porte is now regulated by another Order of Her Majesty in Council, bearing even date with these presents.

Now, therefore, in pursuance of the above recited Act of Parliament, and in execution of the powers thereby vested in Her Majesty in Council, Her Majesty is pleased, by and with the advice of Her Privy Council, to order and declare, and it is hereby ordered and declared as follows:—

From and after the date of this present Order, the said two several Orders in Council of the sixth day of January one thousand eight hundred and sixty-two, and the twenty-first day of March one thousand eight hundred and sixty-two, shall respectively be read and take effect, and be enforced and carried into execution by the Consuls, Vice-Consuls, and Consular Agents of Her Majesty, in the dominions of the Ottoman Porte, in such and the same manner, in all respects, as if the said two several Orders, and all the provisions therein contained, were herein expressly repeated and re-enacted, with the substitution only of a reference to the said Order in Council bearing even date herewith (whereby the exercise of the said Consular jurisdiction is now regulated) instead of the said

repealed Order of the twenty-seventh day of August one thousand eight hundred and sixty, in all parts and places of the said two several Orders respectively in which the said Order of the twenty-seventh day of August one thousand eight hundred and sixty, is in any way mentioned or referred to.

And the Right Honorable the Earl Russell, the Right Honorable Edward Cardwell, and the Right Honorable Sir Charles Wood, three of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

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At the Court at *Windsor*, the 30th day of *November* 1864.

PRESENT:

The QUEEN'S Most Excellent Majesty in Council.

Whereas by the Act of the Session of Parliament of the sixth and seventh years of Her Majesty's reign (chapter 94), "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions and to render the same more effectual," hereinafter called The Foreign Jurisdiction Act, it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had and now has power and jurisdiction in the dominions of the Sublime Ottoman Porte:

And whereas Her Majesty was pleased by and with the advice of Her Privy Council, on the ninth day of January one thousand eight hundred and sixty-three, and the seventeenth day of November one thousand eight hundred and sixty-three, to make, by Orders in Council, dated on those days respectively, provision for the exercise of Her power and jurisdiction aforesaid:

And whereas it has seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient at the present time to revise the provisions of the said orders, and to make further provision for the due exercise of Her Majesty's power and jurisdiction aforesaid, and for the more regular and efficient administration of justice and the better maintenance of order among all classes of Her Majesty's subjects and of persons enjoying Her Majesty's protection resident in or resorting to the dominions of the Sublime Ottoman Porte:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by The Foreign Jurisdiction Act or otherwise in Her vested, is pleased by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows:—

I.—PRELIMINARY.

1. This Order shall commence from and after the thirty-first day of December one thousand eight hundred and sixty-four.

2. The Orders of the ninth day of January one thousand eight hundred and sixty-three, and the seventeenth day of November one thousand eight hundred and sixty-three, are hereby repealed.

This repeal shall not affect the past operation of those Orders, or either of them, or any appointment made or thing done under them or either of them.

3. Pending proceedings shall be regulated by this Order as far as the nature and circumstances of each case admit.

4. In this Order—

the term "the Ottoman dominions" means the dominions of the Sublime Ottoman Porte;

the term "Native Indian subject of Her Majesty" means a native of India (as defined in the Act of Parliament of one thousand eight hundred and fifty-eight "for the better Government of India") not being of European descent;

the term "month" means calendar month;

words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

5. The provisions of this Order relating to British subjects apply to all subjects of Her Majesty, whether by birth or by naturalization, and also to all persons enjoying Her Majesty's protection in the Ottoman dominions.

The provisions of this Order relating to foreigners apply to subjects of the Sublime Ottoman Porte and subjects or citizens of any other Power or State (not being enemies of Her Majesty).

II.—GENERAL PROVISIONS RESPECTING HER MAJESTY'S JURISDICTION.

6. All Her Majesty's jurisdiction exerciseable in the Ottoman dominions for the judicial hearing and determination of matters in difference between British subjects or between British subjects and Foreigners,—or for the administration or control of the property or persons of British subjects,—or for the repression or punishment of crimes or offences committed by British subjects,—or for the maintenance of order among British subjects,—shall be exercised under and according to the provisions of this Order, and not otherwise.

7. Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the Common Law, the Rules of Equity, the Statute Law, and other Law, for the time being in force in and for England, and with the powers vested in and pursuant to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

8. Nothing in this Order shall be deemed to deprive Her Majesty's Consular Officers of the right to observe and to enforce the observance of any reasonable custom obtaining within the Ottoman dominions or to deprive any person of the benefit thereof, except where this Order contains some express and specific provision incompatible with the observance of such custom.

9. Except as to offences against the Capitulations, Articles of Peace, and Treaties between Her Majesty and the Sublime Ottoman Porte, or against any Rules and Regulation for the observance thereof or for the maintenance of order among British subjects in the Ottoman dominions made by or under the authority of Her Majesty, or against

any of the provisions of this Order, or of any Rule made under it,—

No act done by a British subject in the Ottoman dominions or on board a British vessel within those dominions, which would not by a Court of Justice having criminal jurisdiction in England be deemed a crime or offence rendering the person doing such act amenable to punishment in England, shall, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence rendering the person doing such act amenable to punishment.

III.—CONSTITUTION OF HER MAJESTY'S CONSULAR COURTS.

I.—THE SUPREME CONSULAR COURT AT CONSTANTINOPLE.

10. There shall be a Court styled "Her Britannic Majesty's Supreme Consular Court for the Dominions of the Sublime Ottoman Porte."

11. The Supreme Consular Court shall hold its ordinary sittings at Constantinople; but may, on emergency, sit at any other place within the district of the Consulate-General of Constantinople, and may at any time hold its ordinary sittings at any such place within the Ottoman dominions as one of Her Majesty's Principal Secretaries of State approves.

12. There shall be one Judge of the Supreme Consular Court.

Her Majesty's Consul-General at Constantinople for the time being shall be the Judge, but he shall be appointed to the office of Judge by Her Majesty by special warrant under Her Royal sign manual.

He shall be, at the time of his appointment, a member of the Bar of England, Scotland, or Ireland, of not less than seven years' standing, or a subject of Her Majesty (by birth or naturalization) who has filled the office of Legal Vice-Consul in the Ottoman dominions or the office of Law Secretary to the Supreme Consular Court.

He may, in case of his absence from the district of the Consulate-General of Constantinople, either in the discharge of his duty, or with permission of one of Her Majesty's Principal Secretaries of State, or in case of illness, appoint, by writing under his hand and seal, a fit person to be his Deputy, who shall have all the power and authority of Judge.

During a vacancy in the office of Judge, or on emergency, a fit person, approved by one of Her Majesty's Principal Secretaries of State, may temporarily be and act as Acting Judge, with all the power and authority of Judge.

Notwithstanding anything in this Order, Her Majesty may make an appointment to the office of Judge at any time after the passing of this Order; but any such appointment shall not take effect before the first day of January one thousand eight hundred and sixty-five.

13. There shall be attached to the Court—

(1.) One Law Secretary:

(2.) So many officers and clerks as one of Her Majesty's Principal Secretaries of State from time to time thinks fit.

One of Her Majesty's Principal Secretaries of State may from time to time temporarily attach to the Court such persons holding appointments as Consuls or Vice-Consuls as he thinks fit.

14. The Law Secretary shall be appointed by Her Majesty.

He shall hold by special commission from Her Majesty the appointment of Vice-Consul.

He shall act as Registrar of the Court.

He shall discharge such duties in connexion with the conduct of criminal prosecutions as the Judge from time to time directs.

He shall hear and determine in a summary way such criminal charges as may under this Order be properly so heard and determined, and as are specially referred to him by the Judge.

Where a suit or proceeding of a civil nature, originally instituted in the Supreme Consular Court, relates to money, goods or other property, or any civil right or other matter at issue of a less amount or value than one hundred pounds sterling, or is instituted for the recovery of damages of a less amount than one hundred pounds sterling, the Judge may refer such suit or proceeding specially to the Law Secretary to be heard and determined by him; but in all such cases an appeal shall lie as of course to the Judge.

In case of the absence or illness of the Law Secretary, or during a vacancy in the office of Law Secretary, or during the temporary employment of the Law Secretary in any other capacity, the Judge may, by writing under his hand and seal, appoint any fit person approved by one of Her Majesty's Principal Secretaries of State to act temporarily as Law Secretary. The person so appointed shall have all the power and authority of Law Secretary.

Every Consul or Vice-Consul temporarily attached to the Court under Article 13 shall discharge such duties in connexion with the Court as the Judge from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, directs; and for that purpose shall have the like power and authority as the Law Secretary.

II.—THE PROVINCIAL CONSULAR COURTS.

15. In addition to the Supreme Consular Court, each of Her Majesty's Consuls-General, Consuls, and Vice-Consuls (holding a commission as such from Her Majesty), resident in the Ottoman dominions (with such expections as one of Her Majesty's Principal Secretaries of State at any time thinks fit to make), or any person acting temporarily, with the approval of one of Her Majesty's Principal Secretaries of State, as such a Consul-General, Consul, or Vice-Consul, shall, for and in his own Consular district, hold and form a Court styled "Her Britannic Majesty's Consular Court at [*Smyrna, or as the case may be*]," —hereafter in this Order called a Provincial Consular Court.

IV.—JURIES. ASSESSORS.

16. Every male British subject resident in the Ottoman dominions, being of the age of twenty-one years or upwards, being able to speak and read English, having or earning a gross income at the rate of not less than fifty pounds a year, not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon), and not being under outlawry, shall be qualified to serve on a jury.

17. All persons so qualified shall be liable so to serve, except the following:—

Persons in Her Majesty's Diplomatic, Consular, or other civil service in actual employment;

Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of any Consular Court;

Officers and others on full pay in Her Majesty's Navy or Army, or in actual employment in the service of any Department connected therewith;

Persons holding appointments in the Civil service, and Commissioned Officers in the Naval or Military service, of the Sublime Ottoman Porte;

Clergmen and ministers in the actual discharge of professional duties;

Advocates and Attorneys in actual practice;

Physicans, surgeons, and apothecaries in actual practice;

and except persons disabled by mental or bodily infirmity.

18. On or before the fourteenth day of January in every year, each Consular Court shall make out a list of the persons so qualified and liable, resident within its district.

The list shall, on or before the twenty-first day of the same month, be affixed in some conspicuous place in the Court, and shall be there exhibited until the thirty-first day of that month, with a notice annexed that on a day specified, not being sooner than the seventh or later than the fourteenth day of the then next month, the Court will hold a special sitting for the revision of the list.

The Court shall hold such special sitting accordingly, and at such sitting, or at some adjournment thereof (of which public notice shall be given), shall revise the list by striking out the name of any person appearing to be not qualified or not liable to serve, and by inserting the name of any person omitted and appearing to be so qualified and liable, either on the application of the person omitted, or on such notice to him as the Court thinks fit to direct.

The list shall be finally revised and settled not later than the twenty-first day of February in every year, and when settled shall be affixed in some conspicuous place in the Court, and be there exhibited during not less than two months.

Such list, as settled, shall be brought into use in every year on the first day of March, and shall be used as the Jury List of the Court, for the twelve months then next ensuing.

19. Where, in pursuance of this order, a jury is required, the Court shall summon so many of the persons comprised in the jury list, not fewer than fifteen, as seem requisite.

Any person failing to attend according to such summons shall be liable to such fine, of not more than ten pounds sterling, as the Court thinks fit to impose.

Any such fine shall not be levied until after the expiration of fourteen days. The proper officer of the Court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit excusing his non-attendance (if he desires to do so). The Court shall consider the affidavit, and may, if it seems proper, remit the fine.

20. A jury shall consist of five jurors.

21. In civil and in criminal cases the like challenges shall be allowed as in England, with this addition, that in civil cases each party may challenge three jurors peremptorily.

22. A jury shall be required to give an unanimous verdict.

23. Where there is a jury, all the proceedings at the trial shall be conducted in English,—evidence, if given in any other language, being interpreted in the usual way.

24. Where a Provincial Consular Court (not held before a resident Legal Vice-Consul) proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with Assessors, the Court shall nominate and summon as Assessors, not less than two and not more than four indifferent British subjects of good repute, resident in the district of the Court.

Where, however, by reasons of local circumstances, the Court is able to obtain the presence of one fit person only as Assessor, the Court may sit with him alone as Assessor, and where, for like reasons, it is not able to obtain the presence of any fit person as Assessor, it may sit without an Assessor; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one Assessor only, or without an Assessor.

25. An Assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal, but an Assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court, or the conviction or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof, and an Assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

## V.—Jurisdiction and Authorities of the Consular Courts.

### I.—In General.

26. All Her Majesty's jurisdiction, civil and criminal, exerciseable in the Ottoman dominions, shall, for and within the district of the Consulate-General of Constantinople, be vested exclusively in the Supreme Consular Court as its ordinary original jurisdiction.

27. All Her Majesty's jurisdiction, civil and criminal, exerciseable in the Ottoman dominions, beyond the district of the Consulate-General of Constantinople, and not under this Order vested exclusively in the Supreme Consular Court, shall, to the extent and in the manner provided by this Order, be vested in the Provincial Consular Courts each for and within its own district.

28. The Supreme Consular Court shall have, in all matters, civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several Provincial Consular Courts, such concurrent jurisdiction to be exercised subject and according to the other provisions of this Order.

29. The Judge of the Supreme Consular Court may visit, in a magisterial or judicial capacity, any Provincial Consular Court, and there inquire of, or hear and determine, any case, civil or criminal, pending in that Court, or arising within its district, or may appoint the Law Secretary of the Supreme Consular Court to visit in the like capacity and for the like purpose any Provincial Consular Court, or may appoint the resident Legal Vice-Consul of any Provincial Consular Court to visit in the like capacity and for the like purpose any Provincial Consular Court where there is not a resident Legal Vice-Consul.

30. A Provincial Consular Court may, of its own motion, or on the application of any person

concerned, report to the Supreme Consular Court the pendency of any case, civil or criminal, which appears to the Provincial Consular Court fit to be heard and determined by the Supreme Consular Court.

The Supreme Consular Court shall thereupon direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

31. Every Consular Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

32. Each Provincial Consular Court shall execute any writ or order issuing from the Supreme Consular Court, and take security from any person named in any writ or order for his appearance personally or by attorney, and in default of such security being given, or when specially ordered by the Supreme Consular Court so to do, send such person to Constantinople on board one of Her Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel.

The order of the Supreme Consular Court shall be sufficient authority to the commander or master of such vessel of war or other vessel to receive and detain such person, and carry him to and deliver him up at Constantinople according to the order.

33. The several Consular Courts shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

34. Each Provincial Consular Court shall every six months furnish to the Supreme Consular Court a report of every case, civil and criminal, brought before it, in such form as the Judge of the Supreme Consular Court from time to time directs.

II.—IN CIVIL MATTERS.

*Reconciliation and Arbitration.*

35. Every Consular Court and its officers shall, as far as there is proper opportunity, promote reconciliation, and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between persons over whom the Court has jurisdiction.

36. Every Consular Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

37. A Consular Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or re-hearing whatever.

38. Every agreement for reference to arbitration or submission to arbitration by consent between or by British subjects, may, on the application of any party, be made a rule of the Consular Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

*General Authority of Courts.*

39. The Supreme and every other Consular Court shall be a Court of Law and of Equity: and (subject to the other provisions of this Order) shall have and may exercise all jurisdiction, power, and authority, legal, equitable, or other, which any Consul of Her Majesty by custom has or may exercise in the Ottoman dominions.

*Special Authorities of Courts.*

40. The Supreme and every other Consular Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have, each for and within its own district, with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy, and the County Courts in England, or to any other judicial authority having for the time being jurisdiction in Bankruptcy in England.

41. The Supreme Consular Court shall be a Court of Vice-Admiralty, and as such shall, for and within the Ottoman dominions, and for vessels and persons coming within those dominions, have all such jurisdiction as for the time being ordinarily belongs to Courts of Vice-Admiralty in Her Majesty's possessions abroad.

Every Provincial Consular Court held before a resident Legal Vice-Consul shall be a Court of Vice-Admiralty, and as such shall, for its own district, and for vessels and persons coming within that district, have the like jurisdiction.

42. The Supreme Consular Court shall, as far as circumstances admit, have in itself exclusively, for and within the dominions of the Sublime Ottoman Porte, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England intrusted by virtue of Her Majesty's sign manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England, idiot, lunatic, or of unsound mind.

43. The Supreme Consular Court shall be a Court for Matrimonial Causes, and as such shall, as far as circumstances admit, have in itself exclusively, for and within the Ottoman dominions, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

44. The Supreme Consular Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within the Ottoman dominions, with respect to the property of British subjects having at the time of death their fixed places of abode within those dominions, all such jurisdiction as for the time being belongs to Her Majesty's Court of Probate in England.

A Provincial Consular Court shall, however, also have power to grant probate or administration where there is no contention respecting the right to the grant, and it is proved on oath that

the deceased had at the time of his death his fixed place of abode within the jurisdiction of the particular Court.

Probate or administration granted by a Provincial Consular Court shall have effect over all the property of the deceased within the Ottoman dominions, and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant. Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

45. From the death of a British subject, having at the time of death his fixed place of abode within the Ottoman dominions, intestate, until administration granted, his personal property within those dominions shall be vested in the Judge of the Supreme Consular Court, as the personal property of an intestate in England is vested in the Judge of Her Majesty's Court of Probate there.

46. If any person, other than one of Her Majesty's Consular Officers, takes possession of and in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty not exceeding one hundred pounds sterling as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose.

*Trial with a Jury.*

47. Where a suit instituted in the Supreme Consular Court, or in a Provincial Consular Court held before a resident Legal Vice-Consul, relates to money, goods, or other property, or any civil right or other matter at issue, of the amount or value of fifty pounds sterling or upwards,—or is brought for recovery of damages of the amount of fifty pounds sterling or upwards,—the suit shall, on the demand of either party, be tried with a jury.

In any case (except where, according to the Rules of the Court, the suit is to be heard and determined in a summary way) a suit so instituted may be tried with a jury, if the Court of its own motion or on the application of either party, thinks fit so to order.

One of Her Majesty's Principal Secretaries of State may, by order under his hand, extend the present provision to any Provincial Consular Court not held before a resident Legal Vice-Consul where it appears to him a sufficient jury list can be obtained.

*Trial with Assessors.*

48. Where a suit instituted in a Provincial Consular Court not held before a resident Legal Vice-Consul relates to money goods or other property of a less amount or value than three hundred pounds sterling,—or does not relate to or involve, directly or indirectly, a question respecting any civil right or other matter at issue of the amount or value of three hundred pounds sterling or upwards,—or is brought for recovery of damages of a less amount than three hundred pounds sterling, the Court may hear and determine the case without Assessors.

In all other cases the Court shall hear and determine the case with Assessors.

III.—In Criminal Matters.

49. Every Consular Court shall have authority to cause to be apprehended and brought before it any British subject being within the district of the Court and charged with having committed a crime or offence within the Ottoman dominions, or on board a British vessel within those dominions, and to deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order; or where the crime or offence is triable, and is to be tried, in England, to take the preliminary examination, and to commit the accused for trial, and cause or allow him to be taken to England.

50. Where a person charged with a crime or offence escapes or removes from the Consular district within which the crime or offence was committed and is found within another Consular district, the Consular Court within the district of which he is found may proceed in the case to examination, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district; or may, on the requisition or with the consent of the Court of the district within which the crime or offence was committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Where any person is to be so sent in custody a warrant shall be issued by the Court within the district of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up to the Court of the district within which the crime or offence was committed, according to the warrant.

51. Where a warrant or order of arrest is issued by a competent authority in Malta for the apprehension of a British subject, a native of Malta, or of any of its dependencies, who is accused of having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is, or is supposed to be, in the Ottoman dominions, and the warrant or order is produced to a Consular Court, the Court may back the warrant or order, and the same, when so backed, shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or any other officer of the Court by which it is backed, to apprehend the accused at any place in the Ottoman dominions where the Court by which the warrant or order is backed has jurisdiction, and to carry him to and deliver him up at Malta, according to the warrant or order.

52. Where any person is charged with the commission of a crime or offence the cognizance whereof appertains to a Consular Court in the Ottoman dominions, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within Her Majesty's dominions, the accused may (under the foreign jurisdiction Act, Section 4,) be sent for trial, as follows, namely,—with respect to Native Indian subjects of Her Majesty, to Bombay, and with respect to other British subjects, to Malta.

The Judge of the Supreme Consular Court may, where it appears so expedient, by warrant under his hand and seal and the seal of the Supreme Consular Court, cause the accused to be sent for trial to Bombay or to Malta (as the case may require) accordingly.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up at Bombay or at Malta (as the case may be), according to the warrant.

Where any person is to be so sent to Bombay or to Malta, the Consular Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognizances to appear and give evidence on the trial.

53. A Consular Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for assault or any other offence not amounting to felony and being of a private or personal character, on terms of payment of compensation or other terms that may seem reasonable or expedient, and may thereupon order the proceedings to be stayed.

54. All crimes which in England are capital shall be tried by the Judge of the Supreme Consular Court with a jury.

Other crimes and offences above the degree of misdemeanour, tried before the Judge or Law Secretary of the Supreme Consular Court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offence tried before the Judge or Law Secretary of the Supreme Consular Court may be tried with a jury where the Judge or Law Secretary so directs.

Subject to the foregoing provisions, such classes of criminal cases within the original jurisdiction (ordinary or concurrent) of the Supreme Consular Court as the Judge, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

55. The Supreme Consular Court may impose the punishment of imprisonment for any term not exceeding twenty years, with or without hard labour, and with or without a fine not exceeding five hundred pounds sterling, or the punishment of a fine alone not exceeding five hundred pounds sterling.

56. Where any person is convicted of murder, the proper officer of the Court, under the direction of the Judge, shall, in open court, require the offender to state if he has anything to say why judgment of death should not be recorded against him. If such offender does not allege anything that would be sufficient in law to prevent such judgment if the offence had been committed and the trial had been had in England, the Court may order such judgment to be entered on record.

Thereupon the proper officer shall enter judgment of death on record against such offender, as if judgment of death had been actually pronounced on him in open court by the Court.

The Judge of the Supreme Consular Court shall forthwith send a report of every such judgment, with a copy of the minutes of proceedings and notes of evidence and any observations he thinks fit to make, to one of Her Majesty's Principal Secretaries of State, for his direction as to the punishment to be actually imposed, such actual punishment not to exceed the measure of imprisonment and fine mentioned in Article 55.

57. Where a Provincial Consular Court is held before a resident Legal Vice-Consul, crimes and offences above the degree of misdemeanour, tried before the Court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offence may be tried with a jury where the Court so directs.

Subject to the foregoing provisions, such classes of criminal cases as the Judge of the Supreme Consular Court, with the advice and assistance of the resident Legal Vice-Consul, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

58. A Provincial Consular Court held before a resident Legal Vice-Consul may impose the punishment of imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds sterling, or the punishment of a fine alone not exceeding one hundred pounds sterling.

59. Where the crime or offence with which any person is charged before a Provincial Consular Court, not held before a resident Legal Vice-Consul, is any crime or offence other than assault endangering life, cutting, maiming, arson, or housebreaking, and appear to the Court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labour, for not more than three months, or by a fine of not more than twenty-five pounds sterling, the Court shall hear and determine the case in a summary way and without Assessors.

In other cases the Court shall hear and determine the case on indictment and with Assessors.

60. A Provincial Consular Court not held before a resident Legal Vice-Consul may impose the punishment of imprisonment for any term not exceeding twelve months, with or without hard labour, and with or without a fine of fifty pounds sterling, or the punishment of a fine alone not exceeding fifty pounds sterling.

61. Where the crime or offence with which any person is charged before a Provincial Consular Court appears to the Court to be such that, if proved, it would not be adequately punished by such punishment as the Court has power to impose, and the accused is not to be sent for trial to England, Bombay, or Malta, the Court shall reserve the case to be heard and determined by or under the special authority of the Supreme Consular Court.

The Provincial Consular Court shall take the depositions, and forthwith send them, with a minute of other evidence, if any, and a report on the case, to the Supreme Consular Court.

The Supreme Consular Court shall direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

62. The Supreme and every other Consular Court in imposing punishments shall have regard, as far as circumstances admit, and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases.

63. A Consular Court may order any person convicted before it of any crime or offence to pay all or any part of the expenses of his trial and imprisonment or other punishment.

Where it appears to the Court that a charge is malicious, or frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the prosecutor.

64. Where the circumstances of the case make it just or expedient, the Judge of the Supreme Consular Court may report to one of Her Majesty's Principal Secretaries of State recommending a mitigation or remission of any punishment awarded by the Supreme or any other Consular Court; and on such recommendation any such punishment may be mitigated or remitted.

But no such recommendation shall be made with respect to any punishment awarded by a Provincial Consular Court, except on the recommendation of that Court, or on the dissent of the Assessors or Assessor, if any, from the conviction or from the amount of punishment awarded.

65. The Judge of the Supreme Consular Court may, where it seems expedient, by warrant under his hand and the seal of the Supreme Consular Court, cause any offender convicted before any Consular Court and sentenced to imprisonment, to be sent to and imprisoned at any such place in the Ottoman dominions, as one of Her Majesty's Principal Secretaries of State from time to time approves.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up at such place, according to the warrant.

66. Where any offender convicted before a Consular Court in the Ottoman dominions is sentenced to suffer imprisonment in respect of the crime or offence of which he is convicted, and it is expedient that the sentence be carried into effect within Her Majesty's dominions, the offender may (under The Foreign Jurisdiction Act, Section 5,) be sent for imprisonment as follows, namely,—with respect to Native Indian subjects of Her Majesty, to Bombay, and with respect to other British subjects, to Malta.

The Judge of the Supreme Consular Court may, where it appears so expedient, by warrant under his hand and seal and the seal of the Supreme Consular Court, cause such offender to be sent to Bombay or to Malta (as the case may require), in order that the sentence passed upon him may be there carried into effect accordingly.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and him detain the person therein named, and carry him to and deliver him up at Bombay or at Malta (as the case may be), according to the warrant.

67. The Supreme Consular Court shall, when required by one of Her Majesty's Principal Secretaries of State, send to the Secretary of State a report of the sentence passed by the Judge or Law Secretary of the Court in any case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence and any observations the Court thinks fit to make.

Every Provincial Consular Court shall forthwith send to the Supreme Consular Court a report of the sentence passed by it in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence and any observations the Court thinks fit to make. The Supreme Consular Court shall, when required by one of Her Majesty's Principal Secretaries of State, transmit the same, with any observations the Court thinks fit to make, to the Secretary of State.

VI.—Deportation of Offenders.

68. (i.) Where it is shown on oath, to the satisfaction of a Consular Court, that there is reasonable ground to apprehend that any British subject in the Ottoman dominions is about to commit a breach of the public peace,—or that the acts or conduct of any such British subject are or is likely to produce or excite to a breach of the public peace,—the Court may cause him to be brought before it and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require.

(ii.) Where any British subject is convicted of any crime or offence before a Consular Court, or before a Court in the sentence of which one of Her Majesty's Consular Officers concurs, the Consular Court for the district in which he happens to be may require him to give security to the satisfaction of the Court for his future good behaviour.

In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from the Ottoman dominions to such place as the Court directs.

The Court shall not, however, without the consent of the person to be deported, direct the deportation of a Native Indian subject of Her Majesty to any place other than Bombay,—or of a native of Malta or of any of its dependencies to any place other than Malta,—or of a native of Gibraltar to any place other than Gibraltar,—or of a native of any part of Her Majesty's dominions other than Malta, its dependencies, or Gibraltar (the person to be deported not being a Native Indian subject of Her Majesty), to any place other than England.

A Provincial Consular Court shall forthwith report to the Supreme Consular Court any order of deportation made by it, and the grounds thereof. The Supreme Consular Court may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

He shall, as soon as may be practicable (and in the case of a person convicted, either after execution of the sentence or while it is in course of execution), be embarked in custody under the warrant of the Supreme Consular Court on board one of Her Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

The warrant of the Court shall be sufficient authority to the commander or master of such vessel of war, or other vessel, to receive and detain the person to be deported and carry him to and deliver him up at the place of deportation, according to the warrant.

69. The Supreme or other Consular Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's Principal Secretaries of State from time to time directs.

70. The Supreme Consular Court shall forthwith report to one of Her Majesty's Principal Secretaries of State any order of deportation made

or confirmed by it and the grounds thereof, and shall also inform Her Majesty's Ambassador, Minister, or Chargé d'Affaires at the Sublime Ottoman Porte of the same.

71. If any person deported returns to the Ottoman dominions without the permission of one of Her Majesty's Principal Secretaries of State (which permission the Secretary of State may give), he shall be liable on conviction thereof to punishment (in the discretion of the Court before which he is convicted) by imprisonment for not more than one month, with or without hard labor, and with or without a fine of not more than ten pounds sterling, or by a fine of not more than twenty pounds sterling alone, and also to be forthwith again deported in manner hereinbefore provided.

VII.—Registration of Residents and Others.

72. Every British subject (except Native Indian subjects of Her Majesty) resident in the Ottoman dominions,—being of the age of twenty-one years or upwards,—or being married or a widower or widow, though under that age,—shall, in the month of January in every year, register himself or herself in a register to be kept at the Consulate of the Consular district within which he or she resides,—subject to this qualification, that the registration of a man shall be deemed to comprise the registration of his wife (unless she is living apart from him), and that the registration of the head of a family, whether male or female, shall be deemed to comprise the registration of all females being relatives of the head of the family (in whatever degree of relationship) living under the same roof with the head of the family at the time of his or her registration.

Every such British subject not so resident arriving at any place within the Ottoman dominions where a Consular Office is maintained, unless borne on the muster-roll of a British vessel there arriving, shall, within one month after his or her arrival, register himself or herself in a register to be kept at the Consular Office,—but so that no such person shall be required to register himself or herself more than once in any year, reckoned from any first day of January.

Any person failing so to register himself or herself, and not excusing his or her failure to the satisfaction of the Consular Officer, shall not be entitled to be recognised or protected as a British subject in the Ottoman dominions, and shall be liable to a fine of not more than forty shillings for each instance of such failure.

73. Any Native Indian subject of Her Majesty, resident in or resorting to the Ottoman dominions, may, if he or she thinks fit, register himself or herself at the respective times and in the manner aforesaid.

Any Native Indian subject of Her Majesty not so registering himself or herself shall not be entitled to sue in any of Her Majesty's Consular Courts in the Ottoman dominions, or to receive the support or protection of any of Her Majesty's Consular Officers with respect to any suit or proceeding to which he or she is a party in a Court or before a judicial officer of the Sublime Ottoman Porte or in a Court or before a judicial officer in the Ottoman dominions of any state in amity with Her Majesty; nor shall any of Her Majesty's Consular Officers exercise any jurisdiction for the punishment of any crime or offence committed by any Native Indian subject of Her Majesty unless at the date of the commission of the crime or offence he or she was so registered.

74. Every person shall on every such registration of himself or herself pay a fee of five shillings.

75. The Consular Officer shall give to every person so registered a certificate of registration under his hand and Consular seal; and the name of a wife (unless she is living apart from her husband) shall be indorsed on her husband's certificate; and the names and descriptions of females whose registration is comprised in that of the head of the family shall be indorsed on the certificate of the head of the family.

VIII.—Deaths of British Subjects Non-Resident.

76. Where a British subject, not having at the time of death his fixed place of abode in the Ottoman dominions, dies in those dominions, the Consular Court, within whose district he dies, shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court, (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

IX.—Offences against Religion.

77. If any British subject is guilty of publicly deriding, mocking, or insulting any religion established or observed within the Ottoman dominions, or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of those dominions, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof,—or of wilfully committing any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace,—he shall be liable (in the discretion of the Court) to imprisonment for not more than two years, with or without hard labour, and with or without a fine of not more than one hundred pounds sterling, or to a fine of not more than one hundred pounds sterling alone.

Notwithstanding anything in this Order, every charge against a British subject of having committed any such offence shall be heard and determined in a summary way, and any Provincial Consular Court shall have power to impose the punishment aforesaid.

Her Majesty's Consular Officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

X.—Foreigners. Foreign Tribunals.

78. Where a foreigner desires to institute or take any suit or proceeding of a civil nature against a British subject, or a British subject against a foreigner, the Supreme or other Consular Court, according to its respective jurisdiction, shall entertain the same, and shall hear and determine it, either by the Judge or proper Consular Officer sitting alone, or, if all parties desire, or the Court thinks fit to direct, a trial with a jury, then by such Judge or Officer with a jury, but in all other respects according to the ordinary course of the Court:

Provided that the foreigner first obtains and files in the Court the consent in writing of the competent local authority on behalf of the Sublime Ottoman Porte or that of the Consul of his own nation (as the case may be) to his submitting, and does submit, to the jurisdiction of the Court, and if required, gives security to the satisfaction of the Court, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as may be given by the Supreme or other Consular Court originally or on appeal (as the case may require).

79. Where it is shown to a Consular Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Court or before a judicial officer of the Sublime Ottoman Porte, or in a Court or before a judicial officer in the Ottoman dominions of any state in amity with Her Majesty, the Consular Court may, in cases and under circumstances which would require the attendance of such British subject before one of Her Majesty's Consular Courts in the Ottoman dominions, and if it seems to the Consular Court just and expedient so to do, make an order for the attendance of such British subject in such Court or before such judicial officer and for such purpose as aforesaid,—but so that a Provincial Consular Court shall not have power to make an order for such attendance of a British subject at any place beyond the particular jurisdiction of the Court.

Any British subject, duly served with such an order and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly and not excusing his failure to the satisfaction of the Court making the order, shall be liable to a fine of not more than one hundred pounds sterling, or to imprisonment for not more than one month, in the discretion of the Court.

XI.—Appeal to Supreme Consular Court.

I.—In civil cases.

80. Where any decision of a Provincial Consular Court, sitting with or without Assessors, is given in a civil case in respect of a sum or matter at issue of the amount or value of fifty pounds sterling or upwards,—or determines, directly or indirectly, any claim or question respecting property or any civil right of the amount or value of fifty pounds sterling or upwards,—any party aggrieved by the decision may apply to the Provincial Consular Court for leave to appeal to the Supreme Consular Court, and shall be entitled to leave on the terms prescribed by the Rules made under this Order and subject to any restrictions and exceptions therein contained.

In any other case the Provincial Consular Court may, if it seems just and expedient, give leave to appeal on like terms.

In any case the Supreme Consular Court may give leave to appeal on such terms as seem just.

II.—In criminal cases.

81. Where any person is convicted otherwise than in a summary way of a crime or offence, the Court or Consular Officer before whom he is tried may reserve, for the consideration of the Supreme Consular Court, any question of law arising on the trial.

The Court or Officer shall then state a special case setting out the question reserved, with the facts and circumstances on which it arose, and shall send the case to the Supreme Consular Court.

82. Where any person is convicted in a summary way of a crime or offence, and is dissatisfied with the conviction as being erroneous in point of law, the Court or Consular Officer before whom he is tried shall, on his application, (unless the application appears merely frivolous, in which case the Court or Officer may refuse the application,) state a special case setting out the facts and the grounds of the conviction for the opinion of the Supreme Consular Court, and send it to that Court.

83. Where a special case is stated, the Court or Consular Officer shall, as seems fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take proper security for him to appear and receive judgment or to render himself in execution (as the case may require) at an appointed time and place.

84. The Supreme Consular Court shall hear and finally determine the matter, and thereupon shall reverse, affirm, or amend any judgment given at the trial,—or set aside such judgment, and order an entry to be made in the minutes of proceedings that in the judgment of the Supreme Consular Court the person ought not to have been convicted,—or arrest the judgment,—or order judgment to be given at a subsequent sitting of the Court or Officer by whom the case is stated,—or make such other order as justice requires,—and shall also give all necessary and proper consequential directions.

85. The judgment of the Supreme Consular Court shall be delivered in open Court after the public hearing of any argument offered on behalf of the prosecution or of the person convicted.

86. Before delivering judgment, the Supreme Consular Court may, if necessary, cause the special case to be amended by the Court or Consular Officer by whom it was stated.

XII.—Appeal to Her Majesty in Council.

87. Where any decision of the Supreme Consular Court is given in a civil case in respect of a sum or matter at issue of the amount or value of five hundred pounds sterling or upwards,—or determines directly or indirectly any claim or question respecting property or any civil right of the amount or value of five hundred pounds sterling or upwards,—any party aggrieved by the decision may, within fifteen days after the same is given, apply by motion to the Supreme Consular Court for leave to appeal to Her Majesty in Council.

If leave to appeal is applied for by a party adjudged to pay money or perform a duty, the Supreme Consular Court shall direct either that the decision appealed from be carried into execution, or that the execution thereof be suspended, pending the appeal, as the Court considers to be in accordance with substantial justice.

If the Court directs the decision to be carried into execution, the party in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

If the Court directs the execution of the decision to be suspended pending an appeal, the party against whom the decision is given shall, before any order for suspension of execution, give secu-

rity to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

In all cases security shall also be given by the appellant to the satisfaction of the Court to an amount not exceeding five hundred pounds sterling for the prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

If the last-mentioned security is given within one month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Consular Court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from Her Colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Consular Court.

In any case other than the cases hereinbefore described, the Supreme Consular Court, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

88. This Order shall not affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the Supreme Consular Court, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

XIII.—Rules.

89. The Judge of the Supreme Consular Court may, notwithstanding anything herein contained, at any time after the passing of this Order, and from time to time, frame Rules for the effectual execution of this Order, and for the observance of the Capitulations, Articles of Peace, and Treaties between Her Majesty and the Sublime Ottoman Porte, and for the maintenance of order among British subjects in the Ottoman dominions, and may thereby impose reasonable penalties; and also Rules for the regulation of procedure and pleading, forms of writs, and other proceedings, expenses of witnesses and prosecutions, costs and fees, in civil and criminal cases, in the Supreme Consular Court, and other Consular Courts, and the regulation of appeals to the Supreme Consular Court from the other Consular Courts.

The Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure and without unnecessary delay.

No Rules shall take effect unless and until approved by one of Her Majesty's Principal Secretaries of State.

The Rules made under the Order of the 9th day of January 1863, shall remain in force until Rules made under the present Order take effect; and references to the Order of the 9th day of January 1863, in the Rules made thereunder shall be construed as referring to the corresponding provisions of the present Order.

90. A copy of the Rules for the time being in force shall be exhibited in some conspicuous place in each Consular Court and Consulate in the Ottoman dominions. Printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Consular Court from time to time directs.

No penalty shall be enforced in any Court for the breach of any Rule, until the Rule has been so exhibited in the Court for one month.

91. For the purpose of convicting any person committing a breach of any Rule, and for all other purposes of law, a printed copy of the Rule, purporting to be certified under the hand of the Judge of the Supreme Consular Court and the seal of the Court or under the hand and Consular seal of one of Her Majesty's Consular Officers, shall be taken as conclusive evidence of the same, and no proof of the handwriting or seal purporting to certify the same shall be required.

XIV.—Miscellaneous Provisions.

92. In every case, civil or criminal, heard in a Consular Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the Judge or Consular Officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where Assessors are present, be open for their inspection and for their signature, if concurred in by them.

The minutes, with despositions of witnesses, and notes of evidence taken at the trial by the Judge or Consular Officer, shall be preserved in the public office of the Court.

93. In a civil case, a Consular Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceeding, or out of any fund to which the proceeding relates.

94. A Consular Court, either of its own motion, or, in civil cases, on the application of any party to any suit or proceeding or reference, may summon as a witness any British subject in the Ottoman dominions,—but so that a Provincial Consular Court shall have power so to summon British subjects in its own district only.

Any British subject, duly served with such a summons and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly, and not excusing his failure to the satisfaction of the Court, shall, over and above any other liability to which he may be subject, be liable to a fine of not more than one hundred pounds sterling, or to imprisonment for not more than one month in the discretion of the Court.

95. In civil cases a Consular Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties, or any of them.

96. Any person appearing before a Consular Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath, in the form or with the ceremony that he declares to be binding on his conscience.

97. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any reference, shall be deemed guilty of wilful and corrupt perjury.

98. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all

fees, fines, forfeitures, and pecuniary penalties payable under this Order, may be levied by distress and seizure, and sale of ships, goods, and lands; and no bill of sale, or mortgage, or transfer of property, made with a view to security in regard to crimes or offences committed, or to be committed, shall be of any avail to defeat the provisions of this Order.

99. All fees, fines, forfeitures, and pecuniary penalties levied under this Order, shall be carried to the public account, and be applied in diminution of the public expenditure on account of Her Majesty's Consular service in the Ottoman dominions.

100. A copy of this Order shall be exhibited in each Consular Court and Consulate in the Ottoman dominions. Printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Consular Court directs.

101. Any suit or proceeding shall not be commenced in a Consular Court against any person for anything done or omitted under this Order, or any Rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made, the defendant may, by leave of the Court, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

XV.—JOINT JURISDICTION.

102. In any case in the decision of which, under the Capitulations, Articles of Peace, and Treaties with the Sublime Ottoman Porte, any of Her Majesty's Consuls may or ought to concur, the Judge of the Supreme Consular Court or a Consular Officer exercising jurisdiction under this Order shall exclusively act on the part and on behalf of Her Majesty.

And the Right Honourable the Earl Russell, and the Right Honourable Edward Cardwell, and the Right Honourable Sir Charles Wood, three of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

GENERAL.

No. 234.

*The 30th January* 1865.

The leave of absence granted to Colonel G. Ramsay, Resident at Nipal, in G. O. No. 1633, dated 20th December last, is extended to twenty-two months.

No. 236.

Major R. Ranken, Assistant General Superintendent of Operations for the Suppression of Thuggee and Dacoitee at Jubbulpore, has obtained privilege leave of absence for one month, from the 19th December 1864.

No. 238.

Lieutenant W. J. W. Muir, Assistant to the Governor General's Agent for the States of Rajpootana, returned to his duty, on the 4th instant, from the leave granted him in G. O. No. 1128, dated 6th September 1864.

No. 239.

Mr. R. Berkeley, Assistant Commissioner, 2nd Class, in Oudh, has obtained leave to England on medical certificate for fifteen months, from the 25th May 1864.

No. 241.

Major J. F. J. Stevenson, Deputy Commissioner, 3rd grade, in British Burmah, has obtained the usual leave to reach the port of embarkation, preparatory to applying for further leave to Europe on medical certificate.

Major Stevenson made over charge of his office to Captain F. N. Bayley, Assistant Commissioner at Bassein, on the afternoon of the 2nd instant.

No. 249.

*The 2nd February* 1865.

Mr. D. A. Cameron, Extra Assistant Commissioner, Nursingpore, in the Central Provinces, has obtained privilege leave of absence for three months from the date on which he may be relieved of his duties.

No. 251.

Lieutenant T. Cadell, V. C., assumed charge of the office of Bheel Agent and Political Assistant, from Major W. G. Cumming, on the 1st January.

No. 252.

Assistant Surgeon T. M. Lounds made over medical charge of the Rajpootana Agency to Assistant Surgeon W. J. Moore, of the Jodhpore Political Agency, on the afternoon of the 14th January.

No. 253.

Captain H. E. Mottet, Assistant Superintendent, 2nd Class, in Mysore, has obtained privilege leave of absence for 10 days from the 15th January 1865.

A. COLVIN,
*Offg. Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 631.

*Fort William, the 3rd February* 1865.

NOTIFICATION.

Mr. W. E. Gordon, Deputy Auditor and Accountant General, Hyderabad, made over charge of his office to his Chief Assistant, Mr. J. Rose, on the afternoon of the 20th January 1865.

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 30th January* 1865.

*No.* 115 *of* 1865.—The following rates will, in future, be allowed to Staff Sergeants and Sergeants of the Royal Artillery, on re-enlistment, in lieu of the Undress Jacket and Forage Cap :—

| | | | £ | s. | d |
|---|---|---|---|---|---|
| Jackets, Undress, | Horse Brigades | Staff Sergeants .. | 2 | 10 | 5 |
| | | Sergeants .. .. | 1 | 11 | 6 |
| | Field and Garrison Brigades | Staff Sergeants .. | 2 | 10 | 5 |
| | | Sergeants ... .. | 1 | 3 | 1 |
| Forage Caps. | Staff Sergeants and Sergeants .. .. | | 0 | 12 | 5 |

The above order will be applicable to all three Presidencies.

*The 2nd February* 1865.

*No.* 116 *of* 1865.—In publishing for general information the following Despatch, from the Right Hon'ble the Secretary of State, No. 41, dated 23rd November 1863, His Excellency the Governor General in Council is pleased to announce that the Royal Warrant and Regulations No. $\frac{1275}{85}$,* dated 30th September 1864, issued in pursuance of the "Regimental Debts Act, 1863," will come into operation in India on the 1st March 1865, from and after which latter date all previous Regulations, repugnant to the provisions of the said Act and Warrant, will cease to have effect.

* War Office Circular No. 875.

2. Copies of the Act and Warrant will be issued to Corps and Departments.

LEGISLATIVE. INDIA OFFICE,
No. 41. *London, 23rd November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

With reference to the concluding paragraph of my Despatch No. 29, dated 23rd September last, I herewith transmit to you a copy of the Regimental Debts Act, 1863, and three copies of the Royal Warrant which has been issued under it. As you have been already informed, the Warrant should be promulgated after the Mutiny Act of 1864 shall have come into force, in order to avoid any difficulty which might arise from the supersession of the regulations laid down in the Warrant by those provisions of the Mutiny Act which relate to the same subject, and which it is intended by the Warrant to repeal. The Warrant when promulgated will, with the Regimental Debts Act, be the sole and standing authority on the matters comprised in them, and care will be taken to exclude from the Annual Mutiny Act in future any provisions bearing on the subject of the administration of the estates of deceased Officers and Soldiers.

2. In regard to the mode of proceeding on the death of an Officer or Soldier leaving effects, the Regimental Debts Act and the Royal Warrant contain the necessary instructions. In all cases a Committee of Adjustment will be appointed, who, in the case of a Soldier of Her Majesty's Army, as defined in Section 2 of the Act, will proceed, in disposing of the surplus of the personal estate of the deceased, in the manner prescribed by Section 11 of the Act, and Clause 16 of the Warrant; and in all other cases whatsoever (including the estates of Commissioned Officers of Her Majesty's Army, of Commissioned Officers who constitute the Staff Corps of the three Presidencies, and of Warrant and Non-Commissioned Officers and Soldiers who have preferred the conditions of local service) will proceed as directed in Section 12 of the Act and Clause 17 of the Warrant, by which last-mentioned provision the Military Secretary to the Government of the Presidency in which the deceased was quartered is declared to be the "Officer" to whom, under Section 10 of the Act, the surplus is to be remitted, or with whom it is to be lodged.

3. Section 9. of the Act authorizes the Committee of Adjustment, in certain cases, to deliver over the effects received by them to the Administrator General for the Presidency in which the deceased was quartered. What those circumstances are, are indicated in Clause 11 of the Warrant. The course is one to which Committees of Adjustment in all probability will not find it necessary frequently to resort.

4. The course to be followed by the Military Secretary on receipt of the personal estate of the deceased, is pointed out in Section 12 of the Act, and in Clauses 25, 26, 27, and 28 of the Warrant.

5. The payment of arrears to the Military and Orphan Funds is provided for by Section 23 of the Act.

6. The only other provision of the Act to which I consider it necessary to call your attention is that part of Section 21 which fixes the maximum percentage to be taken by the Administrator General at three per cent. With reference to this enactment, you will probably consider it expedient formally to declare, by an Act of the Legislature, that Section 26 of the Indian Act VIII of 1855 shall not be applicable to the estates of deceased Officers and Soldiers delivered over to the Administrator General by the Military Secretary, or by a Committee of Adjustment.

I have, &c.,
C. WOOD.

*No.* 117 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Lieutenant Colonel (Brevet Colonel) Sir Herbert Benjamin Edwardes, K. C. B., of the Bengal Infantry, Commissioner and Superintendent of the Umballa Division. | For 20 months, under the new Regulations. |

*No.* 118 *of* 1865—The under-mentioned Officers are admitted to the Bengal Staff Corps with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant Charles Henry Bridges, of the late 15th Native Infantry, Quarter Master of the 22nd (Punjab) Regiment Native Infantry. | 28th July 1864. |
| Lieutenant Charles Shuttleworth, of Her Majesty's 42nd Royal Highlanders, 1st Assistant District Superintendent of Police, and ex-Officio 2nd in Command, Ajmere and Mairwarra Police Corps. | 11th October 1862. |

*No.* 119 *of* 1865.—The services of Surgeon A. A. Renton, M. D., of the Madras Medical Establishment, are placed temporarily at the disposal of the Foreign Department.

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*No.* 120 *of* 1865.—The under-mentioned Surgeon of the Bengal Medical Department is promoted to the rank of Surgeon Major under the provisions of Government General Order No. 507 of the 20th June 1864, subject to Her Majesty's approval :—

| Rank and name. | From what date. |
|---|---|
| Surgeon Robert James Atkinson, F. R. C. S. ... | 24th January 1865. |

*No.* 121 *of* 1865.—The following Extract from the *London Gazette* of the 13th September 1864, is published for general information :—

WAR OFFICE, PALL MALL,
13*th September* 1864.

*Brevet.*

Captain John Morland, late 1st Bengal European Fusiliers, to be Major, dated 19th January 1864.

---

*The* 3*rd. February* 1865.—

*No.* 122 *of* 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names :—

| | |
|---|---|
| Lieutenant Sir G. L. M. Parker, BART., of the Bengal Staff Corps, Quarter Master, 3rd Goorkha Regiment, on leave for twenty months, G. G. O. No. 1042 of the 19th December 1864. | "Mooltan," 24th December 1864. |
| Lieutenant C. R. Cock, of the late 20th Regiment N. I., on leave for twenty months, G. G. O. No. 1029 of the 15th December 1864. | "Queen of the South," 27th December 1864. |
| Lieutenant Colonel B. Boyd, of the Bengal Infantry, Commandant 38th Regiment N. I., on leave for twenty months, G. G. O. No. 997 of the 8th December 1864. | "Blenheim," 4th January 1865. |
| Veterinary Surgeon A. Turnbull, of the Bengal Establishment on furlough, G. G. O. No. 1052 of the 20th December 1864. | "Erymanthe," 4th January 1865. |
| Major A. S. O. Donaldson, of the late 45th Regiment N. I., on leave for twenty months, G. G. O. No. 1058 of the 22nd December 1864.<br>Lieutenant R. J. Wimberley, of the General List, Infantry, District Superintendent of Police, Punjab, on leave for fifteen months, G. G. O. No. 973 of the 2nd December 1864. | "Nubia," 10th January 1865. |
| Lieutenant Colonel W. T. Money, of the 31st Regiment Madras Light Infantry, on leave for two years, G. G. O. No. 40 of the 9th January 1865.<br>Captain J. R. G. Magrath, of the Madras Staff Corps, Officiating Pay Master, Pegu Division, on leave for twenty months, G. G. O. No. 1006 of the 9th December 1864.<br>Surgeon W. B. Butt, of the Medical Department, on leave for twenty months, G. G. O. No. 27 of the 7th January 1865.<br>Surgeon J. A. C. Hutchinson, M. D., of the Medical Department, on leave to the Cape of Good Hope for two years, G. G. O. No. 33 of the 9th January 1865. | "St. Lawrence," 14th January 1865. |
| Captain T. M. Shelley, of the late 11th Regiment N. I., on furlough for three years, G. G. O. No. 34 of the 9th January 1865. | "Lady Jocelyn," 18th January 1865. |
| Lieutenant A. B. Fox, of the Veteran Establishment, Deputy Assistant Commissary, of the Army Commissariat Department, on leave for twenty months, G. G. O. No. 43 of the 11th January 1865. | "Conflict," 18th January 1865. |
| Assistant Apothecary T. M. Sullivan, of the Subordinate Medical Department, on leave for one year, G. G. No. 968 of the 1st December 1864.<br>Assistant Apothecary J. E. Lovegrove, of the Subordinate Medical Deparment, on leave for fifteen months, G. G. O. No. 899 of the 14th November 1864. | "City of Shanghai," 19th January 1865. |
| Lieutenant Colonel R. N. Raikes, Bengal Infantry, on furlough for three years, G. G. O. No. 89 of the 24th January 1865.<br>Captain A. G. Duff, of the 36th Regiment Madras N. I., Officiating Deputy Commissioner, Ramree, on leave for twenty months, G. G. O. No. 46 of the 12th January 1865.<br>Captain T. Wakefield, of the Madras Staff Corps, Assistant Commissioner, Central Provinces, on leave for twenty months, G. G. O. No. 79 of the 19th January 1865.<br>Lieutenant F. Currie, of the late 1st European Light Cavalry, Assistant Commissioner, Roy Bareilly, on leave for twenty months, G. G. O. No. 46 of the 12th January 1865. | "Bengal," 25th January 1865. |

*No.* 123 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Surgeon Thomas Atchison, of the Medical Department. | For 2 years, under the new Regulations. |

*No.* 124 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain (Brevet Lieutenant Colonel) Peter Henry Knight Dewnal, of the late 34th Regiment Native Infantry. | For 20 months, under the new Regulations. |
| Captain Charles Douglas Newmarch, of the Royal Engineers, Chief Engineer, British Burmah, and Secretary to the Chief Commissioner in the Public Works Department. | For 20 months, under the new Regulations. |

*No.* 125 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on urgent private affairs :—

| | |
|---|---|
| Lieutenant Alexander Andrew, of the Bengal Staff Corps | For 6 months, without pay. |

*No.* 126 *of* 1865.—The under-mentioned soldier of Her Majesty's service is permitted to reside and draw his pay in India as an out-pensioner of Chelsea Hospital, according to the 23rd clause of the Royal Warrant of the 1st July 1848, pending a reference to the Home Authorities as to the amount of his pension :—

Private Henry Whitehead, of Her Majesty's 52nd Regiment.

*No.* 127 *of* 1865.—Lieutenant Colonel O. Hamilton, Pension Pay Master, Meerut and Haupper, is allowed leave of absence on urgent private affairs, from the 1st to the 13th ultimo, in extension of privilege leave.

*No.* 128 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps, with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant Thomas Myles Sandys, of the late 73rd Native Infantry, Adjutant 2nd Punjab Infantry. | 29th July 1863. |
| Lieutenant Charles Kenneth Mackinnon, of the late 63rd Native Infantry, Adjutant 3rd Punjab Infantry. | 6th December 1861. |
| Lieutenant Nathaniel James Jones, of the late 15th Native Infantry, Quarter Master 2nd Punjab Infantry. | 15th September 1863. |

*No.* 129 *of* 1865.—The Government General Order No. 41, of the 10th ultimo, placing the services of Lieutenant P. H. M. Wynter, of the late 32nd Native Infantry, at the disposal of the Government of Bengal, is cancelled at the request of that Officer.

*No.* 130 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Lieutenant Colonel James Pattle Beadle, of the Royal Engineers, Chief Engineer and Secretary to the Government of Bengal, Public Works Department, | For 20 months, under the new Regulations. |

*No.* 131 *of* 1865.—The under-mentioned Warrant Officer has reported his return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Sub-Conductor Richard Busher, attached to the Stud Department. | 26th December 1864. |

*No.* 132 *of* 1865.—Major J. R. A. S. Lowe, Deputy Assistant Commissary General, is allowed leave of absence from the 25th January to the 10th February 1865, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe.

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 23.

*Fort William, the 30th January* 1865.

NOTIFICATIONS.

Mr. W. Palmer, Accountant, 1st grade, attached to Accountant General's Office, Public Works Department, Government of India, is granted two months' privilege leave, with effect from 20th February 1865.

No. 24.

*The 31st January* 1865.

Mr. G. D. Prussia, Accountant, 2nd grade, joined the Office of Accounts, British Burmah, on the 9th instant.

No. 25.

Mr. J. M. Algie, Probationary Assistant Engineer, British Burmah, joined the Embankment Division of Public Works on the 12th December 1864.

No. 26.

Private J. McCawley, Probationary Assistant Overseer, Public Works Department, Central Provinces, is promoted to the grade of Assistant Overseer from the 8th September 1863.

No. 27.

Colonel A. Taylor, C. B., Superintending Engineer, 1st Circle, Punjab, is appointed to officiate as Chief Engineer and Secretary to Government Punjab, vice Lieutenant Colonel R. Maclagan, proceeding on leave to Europe.

Colonel Taylor assumed charge of the Office of the Chief Engineer and Secretary to Government Punjab on the 16th instant.

No. 28.

Baboo Wooma Kaunt Mookerjee, Assistant Accountant, 4th grade, is transferred from the Punjab to the North-Western Provinces.

No. 29.

Mr. W. Purdon, Executive Engineer, 1st Class, is appointed an Officiating Superintending Engineer, Punjab, during the absence of Lieutenant Colonel Maclagan, R. E., or until further orders.

No. 30.

*The 2nd February* 1865.

The following temporary arrangements are made consequent on the departure of Captain C. D. Newmarch on leave on medical certificate:—

Captain W. S. Oliphant, R. E., to officiate as Chief Engineer and Secretary to Chief Commissioner, in the Public Works Department, British Burmah.

Lieutenant W. P. Tomkins, R. E., at present attached to Chief Engineer's Office, to officiate as Assistant to the Chief Engineer and Assistant Secretary to the Chief Commissioner, in the Public Works Department, British Burmah.

No. 31.

Mr. J. Adam, Executive Engineer, 3rd Class, Punjab, having reported his arrival at Calcutta on the 5th January 1865, the unexpired portion of leave granted to him by the Right Hon'ble the Secretary of State for India (vide Notification No. 357, dated 19th December 1864), is cancelled.

E. C. S. WILLIAMS, *Captain*, R. E.

*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### STOLEN.

The Government Promissory Note No. 2477 of 2425 of 1842-43, for Rs. 500, of the 4 per cent. Loan originally standing in the name of Eshree Pershad, Commissariat Gomashtah, and finally endorsed to the undersigned.

Payment of the above note and interest thereupon has been stopped at the Loan Office, and application is about to be made to Government for the issue of a duplicate number in favour of the proprietor.

HURDUI,
*The 16th January* 1865. } RAM NARAIN.

### WANTED.

An Auditor for the current official year's Accounts of the Medical Retiring Fund. Remuneration Rupees 300.

R. A. FINK,
*Officiating Secretary.*

BENGAL MEDL. RETG. FUND,
*The 20th January* 1865.

### SHERIFF'S OFFICE.

Notice is hereby given that the Criminal Sessions of the High Court of Judicature at Fort William in Bengal in its Ordinary Original Jurisdiction for the year 1865, will be held on the undermentioned dates, viz.:—

| | | | | |
|---|---|---|---|---|
| 1st | Criminal | Sessions, | Thursday, | 19th January. |
| 2nd | do. | do. | Friday, | 10th March. |
| 3rd | do. | do. | Tuesday, | 25th April. |
| 4th | do. | do. | Monday, | 5th June. |
| 5th | do. | do. | Tuesday, | 18th July. |
| 6th | do. | do. | Monday, | 14th August. |
| 7th | do. | do. | Thursday, | 14th September. |
| 8th | do. | do. | Friday, | 24th November. |

H. DUNDAS,
*Sheriff.*

*12th January* 1865.

### NOTICE.

The Firm of Barry, Smith and Co. expires this day.

W. H. SMITH, *Senior.*

The business hitherto carried on by Barry, Smith and Co. will be continued by the undersigned under the style and firm of W. H. Smith, Barry and Co., who will also wind up the affairs of the late firm, and in so doing will sign Barry, Smith and Co. in liquidation per W. H. Smith, Barry and Co.

WILLIAM HENRY SMITH, *Senior.*
JAMES MACKILLICAN.
ALEXANDER LAWRIE.

CALCUTTA,
*31st January* 1865.

### TO TIMBER MERCHANTS AND CONTRACTORS, &c.

*Oudh Forest Department.*

A sale of Sâl logs (about 100,000 cubic feet) cut in 1862-63, will take place at noon on the 2nd of March 1865, at Ghuttea Ghaut, on the Sarda, and afterwards at Dhunara Ghaut, two miles further down stream, near the towns of Madho Sunda, Sherepore, and Poorunpore, in the Shajehanpore district; upset price 8 annas per cubic foot. The timber will be sold in both large and small quantities. The timber can be floated to Byram Ghaut for 3 annas a cubic foot, or, after land carriage of some twenty miles, can be floated down the Kumhout Nuddee to the Ganges, then to Cawnpore, Allahabad, Bênares, &c. Estimated cost from Ghauts to Cawnpore, 4½ annas per cubic foot. Tenders for quantities over 1,000 cubic feet, at 8 annas per cubic foot, for cash payment, will be accepted up to date of sale. Terms of sale can be had on application to the undersigned.

E. S. WOOD, *Captain,*
*Offg. Consrvr., Oudh Forests.*

CAMP, KYREEGURH FOREST,
*viâ* POORUNPORE,
ZILLAH SHAJEHANPORE.

## BENGAL CIVIL FUND.

*At a Half-yearly General Meeting of Subscribers to the Bengal Civil Fund, held at the Town Hall on Wednesday, the 25th January* 1865.

PRESENT:

E. H. LUSHINGTON, ESQ.
V. H. SCHALCH, ESQ.
THE HON'BLE R. N. CUST.
THE HON'BLE G. CAMPBELL.
H. D. SANDEMAN, ESQ.
F. R. COCKERELL, ESQ.
T. BRUCE LANE, ESQ.
A. COLVIN, ESQ.
J. D. MACLEAN, ESQ.
J. GEOGHEGAN, ESQ.

F. R. COCKERELL, ESQ., *in the Chair.*

Read the following Report submitted by the Managers :—

The Managers submit their proceedings for the past half-year for the consideration and sanction of the meeting.

Subject to the approval of the subscribers, they have admitted to the benefits of the Fund the following families :—

| | | | |
|---|---|---|---|
| Widow ... ... | £ 300 | 0 | 0 |
| Son ... .. ... | „ 30 | 0 | 0 |
| | £ 330 | 0 | 0 |
| Less ⅙th under Rule 7 | „ 55 | 0 | 0 |
| Yearly Allowance... | £ 275 | 0 | 0 |

The widow and a son of the late Sir A. H. Lawrence, who died at Simla on the 27th August last.

| | | | |
|---|---|---|---|
| Widow ... .. | £ 300 | 0 | 0 |
| Three children .. | „ 170 | 0 | 0 |
| Yearly Allowance .. | £ 470 | 0 | 0 |

The widow and three children (two sons and one daughter) of the late Mr. R. J. Scott, who died in England on the 20th of October last.

A son of the late Mr. E. E. Woodcock from the date of the death of the father, viz., 24th January 1864. The widow and three other children were admitted at the last meeting. The exclusion of the son now proposed for admission arose from the omission of his name in the widow's original application.

| | | | |
|---|---|---|---|
| Mr. Philip M. Woodcock, yearly allowance | £ 100 | 0 | 0 |

The widow and daughter of the late Mr. W. H. Oakes (annuitant of 1843), who died in France on the 25th June 1864. These pensions are under the Old Rules.

| | | | |
|---|---|---|---|
| Widow ... ... | £ 300 | 0 | 0 |
| Daughter .. ... | „ 100 | 0 | 0 |
| Yearly Allowance .. | £ 400 | 0 | 0 |

An addition to the admissions above specified has been made in the case of the widow of the late Mr. Nile. Mrs. Nile is an incumbent on the half allowance from the Fund of Rs. 150 a month as the widow of Mr. Thomas Wyatt, and has been re-admitted from the date of demise of her second husband, 20th December 1864, to the full pension of Rs. 300 a month under the provisions of Article 29 of the Rules.

The Government of India having offered to allow the conversion of the Sicca Rupee Stock into current Government Rupee Stock, the Bank of Bengal has been instructed to convert the whole of the invested Capital of the Fund standing in that class of security. The transaction is one of obvious advantage to the Fund.

The Actuary (Mr. Brown) who has been engaged on a valuation of the assets and liabilities of the the Fund for the past 18 months, reports that he has finished the *valuation*, and is proceeding to write the report.

Under a notification which appeard in the *Gazette of India*, dated the 26th November last, the salaries of subscribers to the Civil Fund in Lower Bengal were made payable from the 1st December last without the pre-audit of the Civil Pay Master, and the Government of India decided that, under the new arrangements, it would be inexpedient to throw upon Treasury Officers the duty of making the deductions, and that the drawers of the bills should themselves note the proper deductions which the Treasury Officer is to make, each subscriber being informed by the Fund Office of any change in the rate of his subscription, consequent on any change in his family, and being required , when transferred from one district to another, to take with him to the new station a last pay certificate showing the proper deductions.

The measure being of an experimental kind, and for the present limited in its application to one Province of the Presidency, the Managers felt justified in giving effect to the arrangements approved by the Government, subject to the approval of the subscribers. The Managers proposed to watch the result of the experiment so far as the due realization of the Fund subscriptions is concerned, and to report on the subject before any steps are taken for extending its application to other Provinces, or giving it a permanent character.

In the mean time the Managers have not thought it necessary to propose any formal alteration of the Rules with reference to the measure.

The accounts of the past year, 1863-64, are submitted.

*Abstract of the Accounts of the Bengal Civil Fund for* 1863-64.

| | Bearing Interest at 8 per cent. | | | Bearing Interest at 4 per cent. | | |
|---|---|---|---|---|---|---|
| UNAPPROPRIATED FUNDS. | Rs. | A. | P. | Rs. | A. | P. |
| By Balance, 1st May 1863 ... | 2,11,497 | 6 | 6 | 12,96,705 | 3 | 4 |
| „ Interest ... | 42,551 | 8 | 0 | 72,958 | 2 | 6 |
| „ Subscriptions during the year ... | 2,13,514 | 2 | 1 | 1,67,099 | 13 | 9 |
| „ Payments by an Annuitant in England to complete subscription balance to Rs. 12,500 under Rule 8. | 11,965 | 7 | 0 | ..... | | |
| „ Composition payment by two Annuitants in India ... | ... | | | 5,379 | 9 | 9 |
| „ Ditto ditto by four ditto in England . | 7,773 | 15 | 5 | 6,893 | 14 | 4 |
| „ Contributions by Annuitants paid in India ... | ..... | | | 23,283 | 0 | 3 |
| „ Ditto paid in England and by absentees on furlough... | 13,441 | 2 | 11 | 8,275 | 13 | 7 |
| „ Fines from 9 subscribers under Rule 6, including 4 for unequal age at marriage. | ..... | | | 3,552 | 1 | 8 |
| „ Ditto from 1 under Rule 6 and for unequal age at marriage paid in England | 1,744 | 1 | 11 | 1,546 | 10 | 9 |
| „ Refund of pension erroneously drawn in India ... | 325 | 15 | 9 | 289 | 1 | 3 |
| „ Transfer from Appropriated Funds of deduction of one-sixth from pensions under Rule 7. | 8,326 | 12 | 6 | 7,384 | 1 | 6 |
| „ Amount granted by Government for the payment of pensions of families of those subscribers who were killed in the mutinies. | 29,791 | 14 | 11 | 26,419 | 4 | 3 |
| „ Donation from the Government paid in England ... | 25,600 | 0 | 0 | ..... | | |
| | 5,66,532 | 7 | 0 | 16,19,786 | 12 | 11 |
| DEDUCT— | | | | | | |
| To Transfer to Appropriated Funds ... | | | | | | |
| „ Value of pension of Mrs. M. R. Gubbins and five sons | 30,255 | 5 | 1 | 35,007 | 10 | 11 |
| „ Ditto of Mrs. G. W. Colledge, one daughter and four sons | 36,394 | 14 | 4 | 46,679 | 4 | 0 |
| „ Ditto of Mrs. T. P. Larkins, one daughter and four sons | 36,293 | 13 | 5 | 44,890 | 10 | 0 |
| „ Ditto of Mrs. R. H. Russell, two daughters and six sons | 45,648 | 1 | 3 | 57,251 | 0 | 3 |
| „ Ditto of Mrs. E. F. Radcliffe, widow, five daughters and two sons of E. F. Radcliffe, Annuitant. | 46,858 | 0 | 5 | 58,560 | 11 | 6 |
| „ Ditto of Mrs. E. E. Woodcock, widow, two daughters and two sons of E. E. Woodcock, Annuitant ... | 27,128 | 15 | 0 | 33,626 | 14 | 9 |
| „ Ditto of Mrs. C. Temple, widow, one daugher and one son of C. Temple, Annuitant. | 11,672 | 15 | 8 | 16,030 | 0 | 10 |
| „ Interest thereon ... | 7,971 | 1 | 3 | 4,910 | 0 | 8 |
| „ Transfer to Appropriated Funds on account of pensions payable by Government. | 29,791 | 14 | 11 | 26,419 | 4 | 3 |
| „ Refund of overpaid subscriptions ... | 714 | 2 | 6 | 844 | 5 | 8 |
| „ Establishment, &c. ... | 2,392 | 7 | 8 | 2,121 | 10 | 1 |
| „ Printing charges ... | 175 | 13 | 2 | 155 | 13 | 9 |
| | 2,75,297 | 8 | 8 | 3,26,497 | 6 | 8 |
| Balance, 30th April 1864 ... | 2,91,234 | 14 | 4 | 12,93,289 | 6 | 3 |
| APPROPRIATED FUNDS. | | | | | | |
| By Balance, 1st May 1863 ... | 31,09,082 | 12 | 9 | 14,93,764 | 2 | 7 |
| „ Interest ... | 3,47,844 | 11 | 7 | 83,895 | 3 | 1 |
| „ Transfer from Unappropriated Funds values of pensions granted to the above seven families within the year. | 2,34,252 | 1 | 2 | 2,92,046 | 4 | 3 |
| „ Interest thereon ... | 7,971 | 1 | 3 | 4,910 | 0 | 8 |
| „ Transfer from Unappropriated Funds on account of pensions payable by Government. | 29,791 | 14 | 11 | 26,419 | 4 | 3 |
| | 37,28,942 | 9 | 8 | 19,01,034 | 14 | 10 |

| | Rs. A. P. | Rs. A. P. |
|---|---|---|
| DEDUCT— | | |
| To pensions paid in England under Old Rules ... | 2,33,367 1 3 | ..... |
| „ Ditto ditto under New Rules ... | 1,65,601 14 7 | 1,46,854 8 7 |
| „ Ditto India under ditto ... | 14,411 13 11 | 12,780 6 10 |
| „ Marriage donation to an incumbent under Rule 30 in India. | 1,590 0 0 | 1,410 0 0 |
| „ Transfer to Unappropriated Funds of the deduction of one-sixth from pensions under Rule 7. | 8,326 12 6 | 7,384 1 6 |
| | 4,23,297 10 3 | 1,68,429 0 11 |
| Balance, 30th April 1864 ... | 33,05,644 15 5 | 17,32,605 13 11 |
| Total balance, 30th April 1864 ... | 35,96,879 13 9 | 30,25,895 4 2 |

INVESTMENT OF THE ABOVE BALANCE.

| | | |
|---|---|---|
| Invested in Treasury Notes at 8 per cent. ... | Rs. 33,34,296 6 11 | |
| Uninvested at 8 per cent. (since invested) ... | „ 2,62,583 6 10 | |
| Invested in Co.'s Paper at 4, 5, and 5½ per cents. ... | „ *28,89,997 7 0 | |
| Uninvested at 4 percent. ... | „ 1,35,897 13 2 | |
| | 66,22,775 1 11 | |
| Deduct amount of Deposit | „ 52,363 10 2 | |
| | Rs. 65,70,411 7 9 | |

* This represents the price paid for the Securities, the nominal value of which amounts to Co.'s Rs. 30,23,700, and the present market value of which may be stated at Co.'s Rs 29,52,156-8-0.

E. E.

A. M. MONTEATH,

*Honorary Secretary and Accountant.*

COMPARISON OF THE BALANCE.

| | | |
|---|---|---|
| Balance, 30th April 1863, less the Deposit ... | Rs. 60,58,685 15 0 | |
| Balance, 30th April 1864, less the Deposit ... | „ 65,70,411 7 9 | |
| Increase ... | Rs. 5,11,725 8 9 | |

Proposed by Mr. T. Bruce Lane, and seconded by Mr. J. D. Maclean, and resolved that the admission of the families of Sir A. H. Lawrence, Messrs. R. J. Scott, E. E. Woodcock, W. H. Oakes, and the re-admission to full pension of Mrs. Nile, (formerly Mrs. Wyatt) be confirmed, and that the proceedings of the Managers in respect to the notification of 26th November be approved.

It was also resolved that the accounts be passed.

The following gentlemen were elected Managers for the ensuing year :—Messrs. V. H. Schalch, the Hon'ble W. S. Seton-Karr, the Hon'ble G. Campbell, J. A. Crawford, and T. Bruce Lane.

A vote of thanks was passed to the Chairman.

BENGAL CIVIL FUND OFFICE,
*The 25th January* 1865.

F. R. COCKERELL,
*Chairman.*

## BENGAL CIVIL SERVICE ANNUITY FUND.

*At an Annual General Meeting of Subscribers to the Civil Service Annuity Fund, held at the Town Hall, on Wednesday, the 25th January* 1865.

PRESENT:

| | |
|---|---|
| E. H. LUSHINGTON, ESQ. | F. R. COCKERELL, ESQ. |
| V. H. SCHALCH, ESQ. | T. B. LANE, ESQ. |
| THE HON'BLE R. N. CUST. | A. COLVIN, ESQ. |
| THE HON'BLE G. CAMPBELL. | J. D. MACLEAN, ESQ. |
| H. D. SANDEMAN, ESQ. | J. GEOGHEGAN, ESQ. |

MR. F. R. COCKERELL, *in the Chair.*

Read the following Report submitted by the Managers :—

The Managers received in July last from the Government of India copy of the subjoined Despatch from the Secretary of State, No. 105, dated 9th May 1864, relative to a question respecting the scale of Invalid Annuities.

The question was whether the amounts indicated by the Despatch of November 1862 for Invalid Pensions were fixed amounts or minimum amounts to be increased by the pensionary values of the subscribtions of the Invalid Retiring Members.

The decision now communicated by the Government, is that the Invalid Annuities sanctioned in the Despatch of November 1862, cannot be increased by the pensionary values of individual subscriptions.

Under a Notification which appeared in the *Gazette of India,* dated the 26th November last, the salaries of subscribers to the Annuity Fund in Lower Bengal were made payable from the 1st December last without the pre-audit of the Civil Pay Master: and the Government of India decided that, under the new arrangements, it would be inexpedient to throw upon Treasury Officers the duty of making the deductions, and that the drawers of the bills should themselves note the proper deductions which the Treasury Officer is to make, the drawer being required, when transferred from one district to another, to take with him to the new station a last pay certificate showing the proper deductions.

The measure being of an experimental kind, and for the present limited in its application to one Province of the Presidency, the Managers felt justified in giving effect to the arrangements approved by the Government, subject to the approval of the subscribers. The Managers propose to watch the result of the experiment so far as the due realization of the Fund subscriptions is concerned, and to report on the subject before any steps are taken for extending its application to other Provinces, or giving it a permanent character.

In the mean time, the Managers have not thought it necessary to propose any formal alteration of the rules with reference to the measure.

The accounts of the past year, 1863-64, are submitted.

*Abstract of the Accounts of the Bengal Civil Service Annuity Fund for* 1863-64 (39 *years*).

| UNAPPROPRIATED FUNDS. | Rs. | A. | P. | Rs. | A. | P. |
|---|---|---|---|---|---|---|
| Balance on 30th April 1863 .. | 36,5[illegible],603 | 8 | 9 | 2,19,516 | 3 | 5 |
| Fine, or difference of value of annuity, from four Annuitants | 53,987 | 4 | 7 | 2,069 | 8 | 9 |
| Subscriptions received during the year (including arrears).. | 3,35,206 | 2 | 11 | 10,633 | 3 | 8 |
| Donations from the Government for the year ... | 15,50,874 | 9 | 11 | ..... | | |
| | 55,98,671 | 10 | 2 | 2,32,218 | 15 | 10 |
| | | | | 55,98,671 | 10 | 2 |
| | | | | 58,30,890 | 10 | 0 |
| DEDUDT— | | | | | | |
| Transfer to Appropriated Funds values of Annuities granted to Messrs. J. I. Harvey, T. Sandys, G. F. Harvey, C. T. Davidson, G. F. Edmonstone, E. E. Woodcock, A. Littledale, F. A. Lushington, F. B. Gubbins, A. R. Young, G. A. C. Plowden, G. Edmonstone, H. M. Reid, H. D. H. Fergusson, M. R. Gubbins, H. C. Halkett, O. W. Malet, W. Wynyard, Hon'ble H. B. Devereux, A. H. Cocks, Sir F. B. Outram, H. W. Hammond, C. Temple, T. E. Fairfax, H. Rose, and the difference of the values of the increased annuities under the Despatch of 25th November 1862, to Messrs. J. S. Dumergue, G. P. Leycester, H. G. Astell, C. G. Wynch, and Jas. Watson ... | 23,29,645 | 1 | 2 | | | |
| Interest thereon ... | 1,37,085 | 14 | 3 | | | |
| Law charges, case Boldero *versus* Managers ... | 2,500 | 0 | 0 | | | |
| Interest thereon ... | 137 | 8 | 0 | | | |
| Establishment and Printing charges, &c. ... | 11,570 | 10 | 3 | 24,80,939 | 1 | 8 |
| | | | | 33,49,951 | 8 | 4 |
| LESS— | | | | | | |
| Transfer to Appropriated Funds under the 13th Triennial Adjustment required by Rule 12 ... | ..... | | | 7,49,951 | 8 | 4 |
| Balance on 30th April 1864 ... | ..... | | | 26,00,000 | 0 | 0 |

| APPROPRIATED FUNDS. | Rs. A. P. | Rs. A. P. |
|---|---|---|
| Balance on 30th April 1863 ... | 1,74,42,294 10 2 | 10,46,537 10 10 |
| Transfer from Unappropriated Funds values of the above-mentioned thirty annuities ... | 23,29,645 1 2 | 1,37,085 14 3 |
| Premium from the Hon'ble J. E. Elliot in 1848 for annuity being made payable up to date of his decease ... | 2,727 7 5 | 4,070 8 2 |
| Re-credit of transfer in excess of the amount of annuities of four deceased annuitants. ... | 27,583 5 4 | 2,481 3 4 |
| | 1,98,02,250 8 1 | 11,90,175 4 7 |
| | | 1,98,02,250 8 1 |
| | | 2,09,92,425 12 8 |
| DEDUCT— | | |
| Payments to 217 Annuitants of their quarterly annuities | 21,46,209 3 9 | |
| „ to 17 Annuitants of their annual annuities ... | 1,94,191 11 9 | |
| Interest charged upon the quarterly paid annuities ... | 48,330 12 6 | 23,88,731 12 0 |
| | | 1,86,03,694 0 8 |
| ADD— | | |
| Amount of transfer from Unappropriated Funds under the valuation adjustment made under Rule 12 .. | ..... | 7,49,951 8 4 |
| Balance on 30th April 1864 Rs. ... | ..... | 1,93,53,645 9 0 |
| Total Balance on 30th April 1864 Rs. ... | ..... | 2,19,53,645 9 0 |

CIVIL SERVICE ANNUITY FUND,
*The 25th January* 1864.

E. E.
A. M. MONTEATH,
*Secretary and Accountant.*

Proposed by Mr. Sandeman, and seconded by Mr. Lushington, and resolved that the Proceedings of the Managers be approved, and the accounts of the Fund be passed.

Mr. V. H. Schalch, the Hon'ble W. S. Seton-Karr, the Hon'ble G. Campbell, Messrs. T. Bruce Lane and J. Geoghegan were elected Managers for the ensuing year.

A vote of thanks was passed to the Chairman.

BENGAL CIVIL SERVICE ANNUITY FUND,
*The 25th January* 1865.

F. R. COCKERELL,
*Chairman.*

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FINANCIAL. No. 105.

INDIA OFFICE, *London, 9th May* 1864.

TO HIS EXCELLENCY THE RIGHT HON'BLE THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

SIR,—I have considered in Council your Financial Despatch,* dated the 18th February last, in which you propose a scale of invalid annuities, "to be supplemented by such further annuity as the accumulated subscriptions of the retiring servant will suffice to purchase," in lieu of the fixed pensions laid down in my Financial Despatch, dated the 15th November 1862, No. 193, which are not to be increased by the value of subscriptions.

* No. 30.

2. You are aware that the concessions sanctioned in my Financial Despatch, dated the 15th November 1862, No. 193, were made after a full consideration of memorials from the Civil Servants of the three Presidencies, in which they represented that the changes which had occurred in their position and prospects, since the Civil Service Annuity Funds were established, were of such a nature as to preclude their admission to the full benefits held out on the establishment of those Funds.

3. In order to meet, as far as practicable, the reasonable expectations of the Civil Service, the portion of the annuity granted by Government was increased from 500*l.* to 600*l.*, and the limit to the number of annuities to be annually granted was abolished.

4. In regard to invalid annuities, much inequality existed between the different Presidencies. At Madras, a Civil Servant could not obtain an invalid pension, even when unable to qualify for the full annuity, while in Bengal no such difficulty was experienced. To place the Civil Servants throughout India in a more equal position, Her Majesty's Government were induced to lay down a scale of invalid pensions which should be available to any Civil Servant when absolutely required.

5. In doing this, however, a serious liability was incurred by the Government, as it was a fundamental principle of the calculations on which the Annuity Funds were based, that the subscriptions of Civil Servants, who failed to qualify for an annuity, should lapse to the Fund. Her Majesty's Government, nevertheless, considered that a Civil Servant who had devoted that portion of his life in which men usually qualify for a profession to the service of the State, and who then by a failure of health was compelled to relinquish the Service, was entitled to some consideration from Government. But it was at the same time necessary so to guard any concession, that it should not form a temptation to a servant to retire before the prescribed period, unless he were entirely disqualified for further service by ill health.

6. After full consideration of the subject, the scale contained in my Financial Despatch of the 15th November 1862, No. 193, was determined on, and the arguments which are adduced in your Despatch have not led to any change in the opinion of Her Majesty's Government.

7. I am, therefore, unable to accede to the proposition which you have submitted.

I have, &c.,

(Signed) C. WOOD.

## No. 2.

## COMMISSARIAT NOTICE.

Sealed tenders are invited for supply of Beef and Mutton to Troops at Fort William and Dum-Dum, on the March and in Camp, at various distances from the Presidency, for fourteen months, from 1st March next.

Form of tender to be had at No. 6, Park Street, where tenders will be received up to 2 P. M. of the 6th, and opened at noon on the 7th February.

Separate tenders required for each Station.

Earnest deposit to be in Government Promissory Notes, or Bank of Bengal Receipt.

### SCHEDULE.

| NAMES OF ARTICLES. | Period for which contract is invited. | Aggregate quantity probably deliverable during the contract. | Where and to whom the articles are deliverable. | Instalments deliverable and specific time of delivery. | Amount of earnest money to be lodged with tender. | Security to be deposited on acceptance of tender by the Commissary General. | Quality of supply. |
|---|---|---|---|---|---|---|---|
| | | lbs. | | | Rupees. | Rupees. | |
| *Fort William.* | From 1st March 1865 to 30th April 1866. | | Ration grounds and Hospitals to Commanding and Medical Officers. | Half an hour before sunrise daily, according to daily Indents, &c. | | | Best grass fed. |
| Beef ... ... ... | | 4,23,500 | | | 3,000 | 10,000 | |
| Mutton ... ... ... | | 71,500 | | | | | |
| *Dum-Dum.* | | | | | | | |
| Beef ... ... ... | | 3,00,000 | | | 3,000 | 10,000 | |
| Mutton ... ... ... | | 50,000 | | | | | |

FORT WILLIAM,
EXE. COMMISSARIAT OFFICE;
*The 23rd January* 1865.

G. S. MACBEAN, *Major,*
*Assistant Commissary General.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 5.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, FEBRUARY 11, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., cap. 67.**

The Council met at Government House on Friday, the 3rd February 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.
Major General the Hon'ble Sir R. Napier, K.C.B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Hon'ble Sir C. E. Trevelyan, K.C.B.
The Hon'ble H. L. Anderson.
The Hon'ble J. N. Bullen.
The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.
The Hon'ble Rája Sáhib Dyál Bahádur.
The Hon'ble G. Noble Taylor.
The Hon'ble W. Muir.
The Hon'ble R. N. Cust.
The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.
The Hon'ble D. Cowie.

COMMON CARRIERS' BILL.

The Hon'ble MR. MAINE presented the report of the Select Committee on the Bill relating to the rights and liabilities of Common Carriers.

ACT XXXI OF 1860 CONTINUANCE BILL.

The Hon'ble MR. MAINE also applied to His Excellency the President to suspend the Rules for the conduct of Business, to enable him to introduce the Bill to continue Act XXXI of 1860 for one year from the expiration thereof. In doing so he said that he had no hesitation in asking His Excellency to suspend the Rules, for, although the Bill had been in the hands of the Members for a very short time, it was a Bill which simply had for its object the continuance of an existing law.

The President declared the Rules suspended.

The Hon'ble MR. MAINE then introduced the Bill and moved that it be referred to a Select Committee, with instructions to report in one week. He said he had mentioned, in asking for leave to introduce the Bill, that the Government of India had required from the Governments of the several Presidencies a report on the working of Act XXXI of 1860; and as there would not be sufficient time to obtain their answers before the expiration of the Act, it was proposed to continue it for another year. He, therefore, begged to introduce the Bill and to move that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

ADMINISTRATOR GENERAL'S BILL, 1865.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras, or Bombay from the operation of the twenty-sixth Section of Act No. VIII of 1855, said that this Bill was not required to change or settle the law, but merely to produce consistency between English and Indian legislation. There was an Act of the British Parliament, known as "The Regimental Debts Act," passed in 1863. It provided (in this respect differing from the Indian Act, VIII of 1855) that the Administrator General should in no case take a larger commission than three per cent. on the assets of Military Estates made over to his charge. Act VIII of 1855, however, allowed the Administrators

General of Madras and Bombay to take a commission of five per cent. upon such assets. There was no doubt as to the law, for, under the Indian Councils' Act, 1861, the English Statute, having been passed since 1861, would over-ride the Indian Act. But still there was an evil in the Indian Act stating a different rate of charges; and therefore, in accordance with the wish of the Secretary of State, he (Mr. Maine) moved for leave to introduce this Bill in order to bring the Indian Act into harmony with English legislation.

The Motion was put and agreed to.

### Financial Commissioner (Oudh) Jurisdiction Bill.

The Hon'ble Mr. Cust introduced the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh, and moved that it be referred to a Select Committee, with instructions to report in four weeks.—He said, it was desirable that this Bill, if possible, should become law during the present sittings of the Council. He had been in communication with the Chief Commissioner and Financial Commissioner of Oudh, to whom copies of the Bill had been sent, and had received from both of those Officers suggestions which would be laid before the Committee. In vesting the Chief Revenue Authority with judicial powers, no new principle was involved, and it was carefully guarded that the change would be only of the tribunal, and that these powers would be withdrawn when the necessity had ceased. The integrity of the jurisdiction of the Civil Court would thus be maintained. The relaxation of the law of limitation was necessary to prevent a large class of people being deprived of the opportunity of having their rights inquired into by a competent Court.

He had to thank his Hon'ble friend Mr. Harington for assistance in drawing this Bill.

The Motion was put and agreed to.

### Civil and Criminal Courts (Punjab) Bill.

The Hon'ble Mr. Cust, in moving for leave to introduce a Bill to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies, remarked that this Bill followed the form of the British Burmah Act, and the Central Province Civil Courts' Jurisdiction Bill, which was still under the consideration of this Council.

The jurisdiction now exercised by the Civil and Criminal Courts of the Punjab was derived, not from any express provision of law, but from Orders passed from time to time by the Executive Government, to which the force of law had been given by the Indian Councils' Act of 1861: but these orders had been modified from time to time, and it was not always easy to ascertain the precise legal powers of each Court. No change was made in the jurisdiction of any of the Courts.

Up to the present time there was no power to appoint additional Judges, when, owing to the pressure of business, such a measure was necessary: provision had been made in this Bill to remedy this omission.

Any doubt which might have arisen as to the legality of the Revenue Courts for the disposal of suits affecting land was also removed.

If this Bill and the Punjab Chief Court Bill became law, the Courts of Judicature of the Punjab would be on a strictly legal basis, and there would be no room for objection to the introduction of the Civil Procedure Code: the Code of Criminal Procedure was already in force.

The Motion was put and agreed to.

### Rural Police (North-Western Provinces) Bill.

The Hon'ble Mr. Muir moved that the Report of the Select Committee on the Bill to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant Governor of the North-Western Provinces be taken into consideration. He said that the Report of the Select Committee appointed to examine into the Bill having now been in the hands of the Members a week, he had the honour to move that it be taken into consideration under Rule 24 of the Rules of the Council. Besides a few slight verbal amendments, two additions had been made in the Bill. The first provided that, on the occasion of a vacancy in the office of Village Watchman, if the proprietor failed to appoint a successor within a reasonable time, he should be liable to a fine of Rupees fifty or to imprisonment for one month. There was no doubt that it was desirable to make it imperative on a Zemindar to appoint a successor in case of vacancy; the knowledge that a penalty could be inflicted for neglect to appoint, would probably in every case lead the Zemindar himself to make the appointment; but in case he should fail to do so, the Bill went on to provide that the Magistrate be empowered to appoint a successor.

The other point had been noticed by the Lieutenant Governor of the North-Western Provinces, namely, that the Bill, as first drawn, contained no provision for the punishment of Village Watchmen for neglect or disobedience. A new Section had, therefore, been added, providing for such offences penalties similar to those prescribed for the Police under the Police Act V of 1861.

These were the only alterations which the Committee had proposed besides verbal amendments, and he, therefore, begged to move that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Muir said, before moving that the Bill, as amended, be passed into law, he had the honour to move that a slight modification be made in Section 12. It had occurred to him that as the Section in question provided that Village Watchmen might be required to perform any duties required of the Police under Act V of 1861, this might be held to supersede the special duties for which they are already responsible; which of course was not the intention of the Section. Those duties might be required of them in addition to their other duties.

He, therefore, proposed that, after the word "village" in line 5, the words "and in addition to his other duties" be inserted. The Section would then run as follows:

"Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer, subject to the provisions of such Act, and guilty of neglect or disobedience, as the case may be."

The Motion was put and agreed to.

The Hon'ble Mr. Muir also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to continue Act XXXI of 1860 for one year from the expiration thereof—The Hon'ble Messrs. Maine, Harington, Taylor, Muir, and Cust.

On the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh—The Hon'ble Messrs. Harington, Maine, Anderson, Taylor, Muir, and Cust.

The Council then adjourned.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative).*

CALCUTTA,
*The 3rd February* 1865.

## HOME DEPARTMENT.

### Indo-European Telegraph Department.

From Lieut. Colonel W. F. MARRIOTT, Secy. to the Govt. of Bombay, to the Secy. to the Govt. of India, Home Dept., dated the 24th January 1865.

I am directed to submit to the Government of India the accompanying copy of a letter from the Director, Mekran Coast and Sub-marine Telegraph, No. 6, dated 3rd instant, reporting on the working of the Indo-European Telegraph, with reference to a representation by the Chamber of Commerce of the imperfect arrangements for the opening of communication between India and England.

From H I WALTON, Esq., Director, Mekran Coast and Sub-marine Telegraph, to the Secy. to Govt. of Bombay,—dated Kurrachee, the 3rd January 1865.

I have the honor to acknowledge receipt of Government Resolution in this Department, No. 290, dated 16th ultimo, desiring me to report particularly my present experience of the working of the telegraph, and with reference to an expression of regret by the Chamber of Commerce at Bombay that the arrangement for the opening of communication between India and England is still imperfect.

2. I would preface this report by recalling to your notice that the line of telegraph was completed between Kurrachee and London in September last, except over a space of some thirty miles of disputed territory forming the Turco-Persian frontier between Bagdad and Kermanshah, and over which break Major Champain reported to Government at the time that he could arrange a system of mounted kossids to carry the messages in four or five hours. I had previously despatched to Major Champain, by Colonel Stewart's instructions, the signallers to work the English line through Persia, and everything promised fair for the immediate opening of communication, at any rate as far as Bagdad viâ Teheran. At the same time, there was, and still is, a line actually completed to London viâ Teheran and St. Petersburg. Suddenly, however, and without any previous intimation of their intentions, the Persians, on the 8th October last, stopped all communication beyond Bushire by cutting the wires; full particulars regarding this obstructive proceeding on the part of the Persians are, doubtless, in the hands of Government. The Persian line still continues closed, and I am informed that it may remain so for an indefinite period.

3. The direct line of telegraph, however, passes through Busrah, and near the banks of the Tigri to Bagdad. Over this section, which is in the hands of the Turkish Government, Colonel Kemball is personally urging on the work, and he informs me that it will probably be completed in four or five weeks.

4. The Convention which was signed at Constantinople on the 3rd September last, and which, by Article XVI, 'is to come into operation as soon as the sub-marine cable shall be in communication with the land lines of Turkey and India,' stipulates in Article VI that, 'in order to ensure promptitude in the Indo-European correspondence, and its regular transmission and receipt, the Ottoman Government will not fail to establish a permanent service at Bagdad and Fâo, as well as at the majority of stations on the main line of Asia between Constantinople and Fâo, and to appoint thereto a staff possessing a knowledge of the English language sufficient for the perfect performance of that important service. 'Moreover, the Ottoman Government, being desirous that the expeditious transit of the Indo-European messages over its territory should be rendered still more satisfactory, engages to establish at Constantinople an Office of transmission devoted exclusively to the service of messages to and from India. Its Officers, and especially the Station-master, 'shall be selected from amongst those of the Ottoman Telegraph Officials who are thoroughly conversant with the English language.'

5. And Article VII declares that 'the Ottoman Government will take the necessary measures to ensure that one wire of the main line from Constantinople to Fâo shall be always exclusively devoted to Indo-European messages.'

6. The sub-marine cable connected the land lines of India with those of Turkey in May last, but, to this day, the Turkish Government have not established the service for the transmission of messages in English. Had they done so, Colonel Kemball was prepared to establish, and for a short time actually did arrange, a kossid service between Busrah and Bagdad, which would have occupied only four days in transit, which, allowing another day for transit over the working sections of the telegraph, would bring Kurrachee within five days' communication with London. The kossid service was, however, soon abandoned, as no messages offered on either side; but in November, on receiving a copy of the Convention of 3rd September, and finding that the merchants in India were willing to risk sending messages through Turkey, I addressed Mr. Johnston, the Vice Consul at Busrah, as to the expediency of re-establishing the kossid service. His reply, as follows, dated 17th November, fully explains the inutility of such an arrangement :—'As there is nobody at Bagdad to translate private messages into Turkish, and nobody to translate into English at Constanti-

nople, and as messages so translated and retranslated are generally unintelligible to the receivers, I think the kossid service you propose would be useless. I hear the Clerks for our work have left Constantinople.' On the 31st December last, Mr. Johnstone telegraphs—'about a month ago arrival of signallers at Diarbekir was reported, but I have since heard nothing of them.'

7. The Mesopotamian line will be completed immediately, but even then I do not see that any measures have been adopted with a view to render it of any service for the transmission of messages in English. The one signaller sent to Fão by the Turkish Government, and to whom we are expected to make over our messages, is not only entirely unacquainted with any European language, but has only a limited knowledge of the manipulation of the instruments.

8. Not having received any communication from Colonel Stewart since he left India, I am unable to state what arrangements have been made by him at Constantinople, or how far the Ottoman Government are likely eventually to fulfil their engagements, as it will be observed that in Article VI, quoted above, no definite time is specified as to when they will perform the promises contained therein.

9. I trust it will be seen from the above that I possess no means of forming any approximate conclusion as to the opening of the through line, the obstacles being entirely of a political nature, over which Telegraph Officials have no control.

## PUBLIC WORKS DEPARTMENT.

### Railway Traffic Returns, Punjab.

*Abstract of Comparative Returns of Traffic on the Punjab Railway. In continuation of Abstract published in Supplement to the* Gazette of India *dated 26th November* 1864.

| Week ending. | Mileage open. | Receipts in 1864. | Receipts in 1863. |
|---|---|---|---|
| | | Rs. | Rs. |
| 2nd October (two days ending) ... | 45 | 1,006 | 707 |
| 9th Ditto ... | " | 3,392 | 2,833 |
| 16th Ditto ... | " | 5,078 | 3,152 |
| 23rd Ditto ... | " | 7,156 | 3,324 |
| 30th Ditto ... | " | 4,917 | 3,270 |
| 6th November ... | " | 4,143 | 3,149 |
| 13th Ditto ... | " | 3,166 | 4,563 |
| 20th Ditto ... | " | 2,918 | 3,090 |
| 27th Ditto ... | " | 2,485 | 3,418 |
| 4th December ... | " | 4,120 | 3,134 |
| 11th Ditto ... | " | 2,818 | 3,724 |
| 18th Ditto ... | " | 2,561 | 2,848 |
| 25th Ditto ... | " | 2,649 | 3,183 |
| 31st Ditto ... | " | 2,679 | 2,070 |
| Total ... | ... | 53,088 | 42,465 |
| Average, Weekly ... | | 4,084 | 3,266 |

### Platelaying in the Punjab Railway.

*Progress Report of Platelaying for the month ending October* 1864.

| | Miles. | Chains. | | Platelaying required. | Previously Linked in. | Previously Completed. | This Month Linked in. | This Month Completed. | Total Linked in. | Total Completed. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | District No. 1. | M. C. | | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 30 73 | 30 73 0 | 30 73 0 | ..... | ..... | 30 73 0 | 30 73 0 | |
| To | 31 | 65 | Umritsur Station ... ... | | | | | | | | |
| | | | District No. 2. | | | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 53 8 | 54 8 0 | 54 8 0 | ..... | ..... | 54 8 0 | 54 8 0 | |
| To | 54 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 3. | | | | | | | | |
| From | 54 | ... | Main Line ... ... .. | 56 0 | 19 0 0 | 0 4 0 | 12 0 0 | ..... | 31 0 0 | 0 4 0 | |
| To | 110 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 4. | | | | | | | | |
| From | 110 | ... | Main Line ... ... ... | 56 0 | 56 0 0 | ..... | ..... | ..... | 56 0 0 | .... | |
| To | 166 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 5. | | | | | | | | |
| From | 166 | ... | Main Line ... ... ... | 54 30 | *54 50 0 | 50 30 0 | ..... | ..... | 54 50 0 | 50 30 0 | |
| To | 230 | 30 | Sher Shah Terminus, 11½ miles beyond Mooltan Station. | | | | | | | | |
| | | | Total for Main Line ... | 250 31 | 214 51 0 | 135 35 0 | 12 0 0 | ..... | 226 51 0 | 135 35 0 | |
| | | | Station Yards and Sidings ... | 30 67 | 17 12 8 | 12 6 98 | ..... | ..... | 17 12 8 | 12 6 98 | |
| | | | Total ... | 281 18 | 231 63 8 | 147 41 98 | 12 0 0 | ..... | 243 63 8 | 147 41 98 | |

LAHORE,
*3rd January* 1865.

(Signed) J. HARRISON,
*Chief Engineer.*

* See March Return.

*Progress Report of Platelaying for the month of November* 1864.

| | Miles | Chains | | Platelaying required. | Previously | | This Month | | Total | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Linked in. | Completed. | Linked in. | Completed. | Linked in. | Completed. | |
| | | | District No. 1. | M. C. | | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 30 73 | 30 73 0 | 30 73 0 | ..... | ..... | 30 73 0 | 30 73 0 | |
| To | 31 | 65 | Umritsur Station ... ... | | | | | | | | |
| | | | District No 2. | | | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 53 8 | 54 8 0 | 54 8 0 | ..... | ..... | 54 8 0 | 54 8 0 | |
| To | 54 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 3. | | | | | | | | |
| From | 54 | ... | Main Line ... ... ... | 56 0 | 31 0 0 | 0 4 0 | 13 0 0 | ..... | 44 0 0 | 0 4 0 | |
| To | 110 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 4. | | | | | | | | |
| From | 110 | ... | Main Line ... ... ... | 56 0 | 56 0 0 | ..... | ..... | 22 0 0 | 56 0 0 | 22 0 0 | |
| To | 166 | ... | " towards Mooltan | | | | | | | | |
| | | | District No. 5. | | | | | | | | |
| From | 166 | ... | Main Line ... ... ... | 54 30 | *54 50 0 | 54 30 0 | ..... | ..... | 54 50 0 | 50 30 0 | |
| To | 220 | 30 | Sher Shah Terminus, 11½ miles beyond Mooltan Station... | | | | | | | | |
| | | | Total for Main Line ... | 250 31 | 226 51 0 | 135 35 0 | 13 0 0 | 22 0 0 | 239 51 0 | 157 35 0 | |
| | | | Station Yards and Sidings ... | 30 67 | 17 12 8 | 12 6 98 | 0 30 0 | ..... | 17 42 8 | 12 6 98 | |
| | | | Total ... | 281 18 | 243 63 8 | 147 41 98 | 13 30 0 | 22 0 0 | 257 13 8 | 169 41 98 | |

Lahore,
*6th January* 1865.

* See March Return.

(Signed) J. Harrison,
*Chief Engineer.*

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## FINANCIAL DEPARTMENT.

### Reports addressed to the Inspector General of Customs, Shanghai, relative to Native Opium.

The Inspector General has directed the publication of Circular No. 2 of 1864, calling for reports on the production and consumption of Native Opium, and of the Official Communications received in reply from the Commissioners of Customs at the Treaty Ports.

Statistics, at once reliable and exact, are not easily attainable; nor is it supposed that the appended reports are, in every particular, both correct and exhaustive. The subject to which they relate is, however, one of considerable interest, and it is thought that the information respecting it, brought together in the following pages, will not prove unacceptable to the Mercantile Communities in China.

By Order,
J. Alex. Man,
*Secretary.*

Inspectorate General of
Chinese Maritime Customs,
Shanghae, 21*st November* 1864.

*Circular No.* 2 *of* 1864.

Inspector General's Office,
Shanghae, 17*th February* 1864.

Sir,—I am anxious to learn to what extent the sale of Native Opium has interfered during the last twelve months with that of Foreign drug in China; I have therefore to instruct you to make such enquiries, both among Chinese and Foreign dealers, as shall enable you to report to me on this subject. The queries to which I have particularly to call your attention are the following:—

1*st.*—Has Native Opium been in use at your port during 1863?

2*nd.*—What quantity has been disposed of during the year?

3*rd.*—What has been the price as compared with that of Foreign drug?

4*th.*—From what province has it come?

5*th.*—Has any, and if so, what quantity, been exported from your port during the year?

6*th.*—Has the appearance of Native Opium in the market diminished the demand for Foreign drug, either at your port or at marts supplied from your port?

Any information, in addition to replies to these queries, that you can obtain, you will please

forward, and you will endeavour to make your report as intelligible and comprehensive as you possibly can.

I am, &c.,
(Signed) ROBERT HART,
*Inspector General.*

THE COMMISSIONERS OF CUSTOMS,
*Newchwang, Tien-tsin, Chefoo, Hankow, Kiukiang, Chinkiang, Shangae, Ningpoo, Foochow, Amoy, Swatow,* and *Canton.*

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*Despatch No.* 2 *of* 1864.

OFFICE OF MARITIME CUSTOMS,
YING TSZ, OR NEWCHWANG, 20*th April* 1864.

SIR,—The queries relative to Native Opium in your Circular No. 2, 1864, may be replied to as follows :—

*No.* 1.—Native Opium has not been in use at this port during 1863.

*No.* 2.—No sale during 1863. In 1861, about eight piculs were sold at 300 taels per picul.

*No.* 3.—When sold, the price averages one-half that of Foreign drug, say, 300 taels per picul.

*No.* 4.—Comes from Shan-si and Sz-chuen. About 200 piculs yearly reach Mougden by land, where it is used for mixing with Foreign Opium in equal proportions.

*No.* 5.—None has been exported during the past year.

*No.* 6.—Native Opium has not diminished the demand for Foreign drug, and does not appear to exercise any influence upon it. It is probable it may itself suffer from the import of its rival.

I have, &c.,
(Signed) JAS. MACKEY,
*Commr. of Customs.*

ROBERT HART, Esq.,
*Inspector General of Maritime Customs, Shanghae.*

1 Picul = 133⅓ lbs.
1 Tael = 6—8*d.* sterling.

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*Despatch No.* 5 *of* 1864.

THE OFFICE OF MARITIME CUSTOMS,
TIEN-TSIN, 26*th March* 1864.

SIR,—In reply to your Circular No. 2 of 1864, I beg to inform you that I have made every enquiry on the subject of Native Opium, and have gathered the following information :—

1*st.*—Native Opium in Tien-tsin is not widely used, the consumers being principally of the lower class.

2*nd.*—The quantity actually disposed of during the year 1863, I find it next to impossible to ascertain with any degree of certainty.

3*rd.*—The price of the drug has averaged about 500 taels.

4*th.*—It comes principally from the province of Shan-si, but 14 chests were imported from Shangae last year.

5*th.*—None has been exported.

6*th.*—Native drug is not supposed to affect the Foreign import market at all, but purchasers are careful in buying, as dealers are in the habit of mixing the two drugs. It is said 600 chests at 500 taels were consumed last year, but that portion of the information seems somewhat uncertain.

I have, &c.,
(Signed) W. BAKER,
*Asst. in Charge.*

THE INSPECTOR GENERAL,
*Shanghae.*

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*Despatch No.* 9 *of* 1864.

CHEEFOO, 8*th March* 1864.

SIR,—In reply to the questions asked in your Circular No. 2 of 1864, on the subject of Native Opium, I have the honor to inform you that the result of my enquiries is, that the consumption of that article at this place during the past year has been so small that it may be returned as nil. Such small quantity, however, as has been consumed has been of a drug sold at 300 taels per picul. It has not influenced the sale of Foreign Opium in the slightest degree. It is brought here from Shen-si, Shan-si, and Yun-nan, and is, I understand, largely consumed in Tsi-nan-foo and other marts north of this, which marts are supplied from Tien-tsin.

I have, &c.,
(Signed) C. HANNEN,
*Commr. of Customs.*

ROBERT HART, Esq.,
*Inspector General of Maritime Customs.*

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*Despatch No.* 8 *of* 1864.

OFFICE OF CUSTOMS,
HANKOW, 16*th March* 1864.

SIR,—I beg to lay before you the result of the enquiries which I have made regarding the trade in, and consumption of Native Opium at this port, in accordance with the instructions contained in your Circular No. 2 of 1864.

Before the year 1860, the Native Opium consumed at Hankow was produced in the province of Shan-si, but towards the end of 1859, the disturbances in the south-east of that province interrupted the communication between it and Hu-pei to such an extent, that the supply of Shan-si Opium entirely ceased, and since this period Hankow has been provided with Native drug, exclusively by the provinces of Sze-chuen and Hunan.

The consumption of Native Opium, however, at once decreased on Hankow being opened to Foreign trade.

This decrease is owing, in the first place, to the reduction in the price of Foreign Opium, which was the result of the greater facilities for transporting it from the port of import to Hankow, created by the opening of the Yang-tsze; and, in the second place, to the increase in the price of Native Opium, which ensued on the ravages committed in the poppy fields of Sze-chuen, by the rebel bands which infested that province.

Native Opium is about 30 per cent. cheaper than Foreign Opium, but this difference in price is compensated for by the greater strength of Foreign Opium, which enables an Opium smoker to

satisfy himself with a smaller quantity of Foreign than of Native Opium.

Opium dealers state that 2,000 piculs of Sze-chuen and Hu-nan Opium were brought to Hankow in 1860, but of this quantity a considerable portion was doubtless re-shipped to Kiukiang and other ports down the river. In 1861 the supply was reduced to 1,500 piculs, whilst in 1862, only 800 piculs, and in 1863, only 500 piculs reached Hankow.

On the other hand, Opium dealers are almost unanimous in stating that in 1860, Foreign drug, or, as they call it, Canton drug was almost unknown in Hankow, and that during this and preceding years, but a "few tens" of piculs annually made their appearance in the Hankow market.

In 1861, 250 piculs of Foreign Opium were imported. In 1862, an enormous increase took place, as Opium dealers inform me that the quantity imported must have amounted to 2,000 piculs.

In 1863, 1,465 piculs 60 catties were imported.

This decrease in the quantity of Foreign Opium imported in 1863, is owing—the Native dealers explain to me—to the fact that in 1862, the occupation by the Nien-fei of Shu-chou compelled the inhabitants of a large portion of the province of Ngan-hui to provide themselves with drug at Hankow, whilst the recapture of that city now enables them to draw their supplies from Yang-chou and Sin-niu-miao.

Malwa is the principal Foreign Opium imported; of the 1,466 piculs 60 catties Foreign Opium imported last year, 1,424 piculs were of Malwa.

The quantity of Native Opium exported is now very inconsiderable, only 43 piculs were exported during 1863.

I am, &c.,

(Signed) A. MACPHERSON,
*Acting Commissioner of Customs.*

ROBERT HART, Esq.,
*Inspector General, Imperial Maritime Customs, Shanghae.*

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*Despatch No. 7 of* 1864.

OFFICE OF MARITIME CUSTOMS,
KIUKIANG, 17*th March* 1864.

SIR,—I have made enquiries of both Native and Foreign merchants, as your request in your Circular No. 2 of 1864, in relation to the sale of Native Opium, and find that it is not sold, or used, at this port.

There is a small quantity raised in the district of Kan-chau in this province, but it is all consumed at or near the place where it is raised, not any of it is brought to market. The quality is very inferior; its estimated value is 200 taels per picul, while that of the Foreign drug is 570 taels per picul.

The production is estimated at 200 piculs for the last year, but its production depends upon the return of other crops; if plentiful, and the capital can be spared to do so, they raise a small quantity for their own consumption.

Its production in the district does not affect at all the sale of Foreign drug.

I have, &c.,

(Signed) J. L. HAMMOND,
*Assistant in Charge.*

ROBERT HART, Esq.,
*Inspector General, &c., &c.*

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*Despatch No. 27 of* 1864.

OFFICE OF MARITIME CUSTOMS,
CHINKIANG, 12*th September* 1864.

SIR,—In reply to your Circular despatch No. 2, of 17th February 1864, I have the honor to submit the following answers (deduced from careful and extensive enquiries made of both Chinese and Foreign dealers) to your queries respecting the trade in Native Opium at this port:—

1*st.*—Native Opium may be considered as not in use at this port.

2*nd.*—The import estimate is about 12 piculs per annum intended for re-exportation.

3*rd.*—The price is about three-fifths of the Foreign drug; say 300 taels against 500 taels.

4*th.*—Is imported from the province of Yun-nan.

5*th.*—About 12 piculs re-exported principally to a city called————*

6*th.*—The market here for Foreign Opium does not appear to be diminished or in any material way affected by the introduction of the Native drug.

I am, &c.,

CHAS. A. LORD,
*Acting Commissioner of Customs.*
*per* A. J. CAMPBELL,
*Assistant.*

ROBERT HART, Esq.,
*Inspector General, I. M. Customs, Pekin.*

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*Despatch No. 8 of* 1864.

OFFICE OF MARITIME CUSTOMS,
SHANGHAE, 16*th March* 1864.

SIR,—In reply to your Circular No. 2 of the 17th February, (which I received on the 24th) calling for information respecting the use of Native Opium at this port, I beg to state—

1*st & 2nd.*—That the quantity of Native Opium disposed of at this port during 1863 is estimated at about 500 piculs.

3*rd.*—That its average price has been 375 taels per picul, while that of Foreign Opium has been for Malwa 530 taels, and for Patna 500 taels.

4*th.*—That the Native Opium imported into this place has been brought from two places, viz., Hankow in Hu-pei, and Ching-chiang-fu in Gan-hwei. The Opium brought from the former place has been produced chiefly in Sze-chuen, and the amount brought in Foreign Steamers, according to the Returns of this Office, was 43 piculs: the Opium brought from the latter place has, probably,

* In Chinese characters.

been produced in Ho nan and Shan-si, but I can get no accurate information concerning the provinces from which it originally comes, or the quantity of it brought, to this place. It is imported in small quantities in Native crafts.

*5th.*—That during last year, 14 piculs and 63 catties Native Opium, which had been imported from Hankow were re-exported to Tien-tsin, and 3 piculs and 12 catties, prepared Native Opium, were exported to the same place in Foreign vessels.

*6th.*—That the appearance of Native Opium in the market has not, to any perceptible extent, affected the demand for Foreign drug, either here, or, so far as I can ascertain, in the neighbourhood.

To the above answers to the questions contained in your Circular, I beg to add the following remarks.

The provinces spoken of by the Chinese as being the principal Opium-producing ones are—Sze-chuen, Kan-suh, Shen-si, Shan-si, Ho-nan, Shan-tung, Kiang-si, Yun-nan, and Kwei-chow.

The cultivation of the poppy is said to have been recently commenced in the districts of Hiang-shan, Shun-toh, and Tung-kwan in Kwang-tung, and in Tai-chou in Che-kiang. In the provinces of Chi-li, Hu-pei, Hu-nan, Gan-hui, Kiang-su, Fuh-kien, and Kwang-si, the cultivation is probably known, but it is not, so far as I can ascertain, carried on to any remarkable extent.

The total quantity of Opium consumed here during last year is estimated at 20,000 piculs, of which amount, Native Opium contributed, as I have already stated, about 500 piculs.

Native Opium is much inferior in flavor to the Foreign drug. It is smoked by people who are too poor to buy the latter, with which, again, it is mixed in order to suit the circumstances of people who are a little better off; but Foreign Opium is used by all the smokers who can afford to buy it. So long as the present great difference in quality between the Native and Foreign articles continues to exist, I do not think that the sale of the former will interfere much with that of the latter.

I am, &c.,

(Signed) T. DICK,
*Commr. of Customs.*

ROBERT HART, ESQ.,
*Inspector General of Chinese Maritime Customs.*

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*Despatch No. 7 of* 1864.

OFFICE OF MARITIME CUSTOMS,
NINGPO, 23*rd March* 1864.

SIR,—I beg to acknowledge the receipt of your Circular despatch No. 2 of the 17th February, calling for a report of the extent to which the sale of Native Opium has interfered, during the last twelve months, with that of the Foreign drug in China.

In reply I have to submit the following answers to your queries, numbered 1 to 6 consecutively:—

*1st, 2nd, 3rd, and 4th.*—No Native Opium has been in use at this port during the year 1863.

*5th.*—There has been no export of the drug from Ningpo.

*6th.*—Regarding this enquiry, I would remark that the presence of Native Opium, in the south of the Che-kiang province, has materially affected the quantity of the Foreign drug sold at Ningpo for marts in that part of the country. I am informed by one merchant (as his opinion,) to the number of a monthly average of 15* to 20 chests. It is prepared from the juice of the *red* poppy grown in the hilly country to the south of this port, in the prefecture of Tai-chow, also at Lih-kiang, and other islands of the Chusan group. Moreover, it is grown at Tien-tung to a very little extent, but with trepidation; and, indeed, at most places situated too close to the abode of the higher local officials, it is never seen by the observer.

The quantity of the article produced in Che-kiang,—into which there is no importation from other provinces,—cannot be ascertained even from Chinese sources, and the price is said to be about one half that of the Foreign drug. But it is asserted the further distant from the depôts of the latter description of Opium, the greater is the increase in the value of the Native supplies. Hence, or principally on that account, no such supplies are brought here, either for sale or use. Neither in the districts, where Native Opium is consumed, is the Foreign commodity bought, or used, by the people.

The smokers of Native Opium describe it as having an insipid taste, and as losing much weight during the boiling process of its preparation for the pipe. The poppy grows to a height of six and seven feet with a large head; and the juice is obtained by making three or four delicate incisions upwards, on each head, allowing the piece of cut skin to overlap the wound, and, early every morning, is collected by scraping it, in its exuded state, off the plant with a blunt piece of bamboo. I have not been able to ascertain the yield of a field of poppies per mow; in the producing districts, it is the only spring crop, to the exclusion of pulse before grown, and is found to be the most profitable investment to the cultivator.

The growers are improving the quality of the drug by keeping the first yield separate from the last, yet, as with their vegetables, they look to quantity not to quality, and if they would manure the land less heavily, a more beneficial result would ensure from the change.

The principal class of Foreign drug sold here is "Malwa;" the importation of Patna is a rarity. The consumption of both classes at Ningpo and marts supplied by it, amounted to more than 3,000 chests, or piculs, during one year in the time of H. E. Chang, Taotae; whereas during the past year it has not been half that quantity. However as soon as the prefectures of Hang-chow, Chia-hsing, and Hoo-chow, are recaptured from the rebels, it is confidently anticipated that the traffic will receive a great impetus.

I have, &c.,

(Signed) JAMES BROWN,
*Asst. in Charge.*

ROBERT HART, ESQ.,
*Inspector General, Shanghai.*

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* Really a small matter.—H. M.

*Despatch No.* 54 *of* 1864.

OFFICE DES DOUANES MARITIMES,

FOOCHOW, *le* 4 *Octobre* 1864.

MONSIEUR,—J'ai l'honneur de vous accuser réception de votre dépêche No. 20, datée de Péking, 9 Août, 1864, et par laquelle vous me demandez une réponse à vos circulaire Nos. 2 et 5, du 17 Février et du 16 Mars de cette année.

En ce qui concerne la primière de ces circulaires, je me bornerai à vous dire, Monsieur, que la consommation de l'Opium dans cette province est exclusivement concentrée sur l'Opium étranger, que pour la première fois en 1861 une caisse d'Opium indigène a été importée de Hankow dans le Fokien, et que cet essai, n'ayant pas réusie, n'a jamais été renouvelé.

* * * * *

Agréez, Monsieur, &c.,

(Signé) BARON DE MERITENS,

*Commissaire des douanes.*

Monsieur ROBERT HART,

*Inspecteur Général*

*Des Douanes Maritimes.*

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*Despatch No.* 7 *of* 1864.

OFFICE OF MARITIME CUSTOMS,

AMOY, 16*th March* 1864.

SIR,—In reply to questions 1 to 6 on the subject of Native Opium, contained in Circular No. 2 of 1864, I have the honor to state that,—

1*st.*—Native Opium has been in use at Amoy during the year 1863; and that

2*nd.*—About 500 piculs have been disposed of in that period at a

3*rd.*—Price varying from $400 to 480 per picul, which, as compared with the price of Foreign Opium, is nearly one-half *less.*

4*th.*—It is grown and prepared chiefly at Tung-ngan in the province of Fokien, 20 miles distant from Amoy.

5*th.*—In the year 1863, about 100 piculs are stated to have been exported to Formosa; 100 piculs to Ankoi, Chang-chew, and Chin-chew; 100 piculs to Tien-tsin.

6*th.*—The consumption of Native Opium in and around Amoy, say 200 piculs per annum, has in no perceptible degree diminished the demand for Foreign drug here; neither has it, so far as I can ascertain, at those marts supplied from Amoy.

Native Opium is not permitted to be grown in the immediate vicinity of Amoy; Tung-ngan is a turbulent district over which the authorities have but little control. The Opium is sold by the grower in a prepared state, but it is of an inferior quality and is only used by the poorer classes, and is even then frequently mixed with the Foreign drug.

The Le-kin tax when levied is about two mace per catty; but this charge and the export duty are usually evaded by smuggling—no Native Opium has been passed through this Custom-house.

Although, as stated, its production has not yet perceptibly diminished the demand for Foreign drug, still, ultimately, it must affect the market, as its production has increased from about 50 piculs in 1861 to 500 piculs in 1863 nearly one-sixth of the amount of Foreign Opium, 3,350 piculs, imported in that year.

I have, &c.,

(Signed) GEO. HUGHES,

*Commr.*

ROBERT HART, ESQ.,

*Inspector General, Maritime Customs,*

*Shanghae.*

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*Despatch No.* 15 *of* 1864.

OFFICE OF MARITIME CUSTOMS,

SWATOW, 4*th April* 1864.

SIR,—In accordance with your Circular No. 2 of 1864, making enquiries as "to what extent the sale of Native Opium has interfered during the past year with that of Foreign drug in China, I have the honor to answer the queries."—

1*st.*—Has Native Opium been in use at your port during the year?—*It has not.*

2*nd.*—What quantity has been disposed of during the year?—*None.*

3*rd.*—What has been the price as compared with that of Foreign drug?—*There being no sale, no comparison as to price can be made.*

4*th.*—From what province has it come?

5*th.* Has any, and if so, what quantity, been exported from your port during the year?—*None.*

6*th.*—Has the appearance of Native Opium in the market diminished the demand for Foreign drug, either at your port or at marts supplied from your port?—*It has not.*

And so far, from enquiries made, it would seem that the use of Native drug is hardly known in this section.

I have, &c.,

(Signed) H. D. WILLIAMS,

*Actg. Commr. of Customs.*

ROBERT HART, Esq.,

*Inspector General, Shanghae.*

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*Despatch No.* 22 *of* 1864.

OFFICE OF MARITIME CUSTOMS,

CANTON, 27*th April* 1864.

SIR,—In your Circular No. 2, dated Shanghae, 17th February last, you have informed me that you are anxious to learn to what extent the sale of Native Opium has interfered, during the last twelve months, with that of Foreign drug in China, and have instructed me to make such enquiries, both among Chinese and Foreign dealers at this port, as shall enable me to report to yourself on the subject.

In pursuance of these instructions, I have for some time past been engaged in making enquiries on this subject, and in collecting information from various sources, the results of which I have now the honor to lay before you, but, in doing so, I would beg to remark that in consequence of there being no Foreign dealers in Opium at this port, I have been compelled to rely upon the Chinese dealers for information, and that this has been of so conflicting a character as to make it difficult to arrive at a very satisfactory conclusion.

The contradictory statements I have received, I believe, however, to have arisen, in a great measure, from the unwillingness of the Chinese dealers to

furnish information on the subject, but the following particulars obtained from the more reliable sources, and forming a digest of the information I have arrived at after careful investigation and enquiry, will, I think, be found tolerably correct.

In pursuance of your instructions, I shall first reply severally to the queries to which you have particularly called my attention, and afterwards state such additional information as I have been able to obtain—

*1st.*—Native Opium has been in use at this port during 1863.

*2nd.*—About fifteen thousand piculs have been disposed of during the year.

*3rd.*—The average price of Native Opium during the past year has been from $380 to 400 Mexican Dollars per picul, while that of Foreign drug, during the same period, has averaged, say for Malwa Opium, about $670, and for Patna Opium $530 Mexican Dollars per picul.

*4th.*—Native Opium has come principally from the provinces of Yun-nan, also from those of Kwei-chow and Sze-chuen in about the following proportions, viz. :—

From Yun-nan about 800 piculs.
„ Kwei-chow „ 400 „
„ Sze-chuen „ 200 „

whilst in this province, Kwang-tung, probably about one hundred piculs have been produced.

*5th.*—There has been no Native Opium exported from Canton during the past year, as far as can be ascertained.

*6th.*—The appearance of Native Opium in the market has not, so far as can be ascertained, diminished the demand for Foreign drug, either at this port or at marts supplied from this port.

By far the greater portion of Native Opium imported has come from Yun-nan, hence the general name given to it is Yun-nan Pei or Yun-nan Too.

The principal markets in Kwang-tung are :—

Fo-shan (Fat-shan).
Shu-hing (Chao-chin).
Hsing-ngan (Hsi-nan),

and Canton : the most important being at Fo-shan, and known as the Yunkwei-hong.

It is sold by the dealers importing it, and the greater portion is then mixed with Malwa Opium (in the proportion of about one-fifth Native to four-fifths Malwa), and is sent principally to the inland markets of Woo-chow-foo and Kwei-lin in the province of Kwan-si.

Native Opium is generally imported into this (the Kwang-tung) province in cakes weighing one hundred taels, and is subject, on its arrival at the north-west barrier of Shaou-kwan, to an import duty of nine mace, and to a Chow-li or War tax of three hundred and fifty Copper Cash for one hundred taels weight. On being brought into Canton, it further pays five candareens to the Kwang-chow-foo Office for the same weight.

Its use in this province and city is not general, probably five per cent. of Opium smokers use it in mixture with Malwa Opium, but this, not from a preference to Foreign drug, but on account of its less astringent qualities. Of the Native Opium imported, little is used in its pure state, (probably one-fifth,) and it is disliked by Opium smokers on account of its "grassy" taste, which, however, is said to be less perceptible than in former years, as attention has been given to the subject.

The reason that so much mixed Native and Malwa Opium is sent to Kwangsi, appears to be that it is there sold as Foreign drug, and thus affords a larger profit to the dealer. It is confidently stated that, although the import of Native Opium has increased and is likely to do so, it is not likely to diminish the demand for Foreign drug, and this is accounted for by the alleged increase of Opium smoking in the south of China.

As regards the cultivation of the poppy in this province (Kwang-tung), it has been carried on to a small extent in the districts of Lo-ting, Ho-shan, Hsing-ngan, Shu-hing, Sin-ning, and Kaou-yaou, but it is said to little advantage, as the soil and climate are not considered favorable. It is, however, also stated that owing to the suppression of the Hak-ka disturbances, a large quantity will be grown during the present year. The price of Native Opium rises and falls with that of Foreign drug.

There are said to be restrictions peculiarly unfavorable to its export from Canton.

As the above particulars constitute all the information I have been able to obtain on the subject, I trust the present report will prove tolerably satisfactory to you. I have, &c.,

(Signed) T. G. Luson,
*Asst. in Charge.*

Robert Hart, Esq.,
*Inspector General of Chinese Maritime Customs.*

## *Government of Madras.*

### Cinchona Operations in the Neilgherries.

*Report on the Number and Condition of Cinchona Plants on the Neilgherries on the 31st December* 1864.

| Species. | Botanical Names. | Commercial Names. | No. of Plants. | Value per lb. of Dry Bark in the London Market. | REMARKS. |
|---|---|---|---|---|---|
| | | | | s. d. s. d. | The number of plants permanently planted out in the plantations remain the same as last month, namely, 1,65,351. |
| 1 | C. Succirubra ... | Red Bark ... | 1,38,119 | 2 6 to 8 9 | |
| 2 | C. Calisaya ... | Yellow Bark ... | 2,560 | 2 10 to 7 0 | |
| 3 | C. Officinalis Var Condamenia (C. Uritusinga) | Original Loxa Bark | 2,705 | 2 10 to 7 0 | |
| 4 | Ditto. Var Bonplandiana (C. Chahuarguera) | Select Crown Bark | 3,24,276 | 2 10 to 7 0 | The increase by propagation is 24,006, being 3,024 plants above the average of the last six months, making the total number of plants at the end of the month 4,99,452. |
| 5 | C. Crespilla ... | Fine Crown Bark ... | 2,367 | 2 10 to 6 0 | |
| 6 | C. Lancifolia ... | Pitayo Bark ... | 28 | 1 8 to 2 10 | |
| 7 | C. Nitida ... | Genuine Grey Bark | 8,500 | 1 8 to 2 9 | |
| 8 | C. Species without name .. | Fine Grey Bark ... | 2,786 | 1 8 to 2 10 | |
| 9 | C. Micrantha ... | Grey Bark ... | 14,314 | 1 8 to 2 9 | |
| 10 | C. Peruviana ... | Finest Grey Bark... | 3,372 | 1 8 to 2 10 | |
| 11 | C. Pahudiana ... | Unknown ... | 425 | Worthless. | |
| | | Total number of plants ... | 4,99,452 | | |

### TABLE II.

*Memorandum of the growth of eleven Plants of C. Succirubra, planted on the 2nd Denison Plantation, at Neddivuttum, on the 30th August* 1862.

| No. of Plants. | Height in inches when planted on the 30th August 1862. | Height in inches on the 30th Nov. 1864. | Height in inches on the 31st Dec. 1864. | Growth in inches during Dec. 1864. | By whom planted. |
|---|---|---|---|---|---|
| 1 | 23 | 111 | 112 | 1 | His Excellency Sir W. Denison. |
| 2 | 16½ | 103¾ | 101 | ¼ | |
| 3 | 19 | 104¼ | 104½ | ¼ | |
| 4 | 15 | 98¼ | 98¾ | ½ | |
| 5 | 27 | 117 | 117 | 0 | |
| 6 | 20 | 88 | 89 | 1 | |
| 7 | 20 | 107½ | 107¾ | ¼ | J. W. Breeks, Esq. |
| 8 | 18 | 109 | 109 | 0 | Dr. Sanderson. |
| 9 | 20 | 111¼ | 111¼ | 0 | J. D. Sim, Esq. |
| 10 | 20 | 112¾ | 113 | ¼ | Lieutenant McLeod. |
| 11 | 18 | 98 | 98¼ | ¼ | P. Grant, Esq. |
| 12 | ... | 52 | 53 | 1 | Plant cut down for bark. |

Table II. exhibits the growth of eleven plants of Cinchona Succirubra planted out by His Excellency the Governor and other gentlemen at Neddivuttum on the 30th August 1862. The average growth of these plants during the month is ¼ inch, being 2 inches under the growth of last month.

One of the two plants cut down on the 20th of March 1863, for the bark submitted to Mr. Howard for analysis, has made strong shoots of 53 inches in height, giving the growth of one inch during the month.

## TABLE III.

*Showing the height of twelve Plants of C. Officinalis planted on the Dodabetta Plantation at Ootacamund on the 30th September 1863.*

| No. of Plants. | Height in inches when planted on the 30th September 1863. | Height in inches on the 30th Nov. 1864. | Height in inches on the 31st Dec. 1864. | Growth in inches during Dec. 1864. |
|---|---|---|---|---|
| 1 | 19 | 65 | 67½ | 2½ |
| 2 | 14½ | 55½ | 58½ | 3 |
| 3 | 28 | 70 | 73 | 3 |
| 4 | 22 | 72 | 75 | 3 |
| 5 | 21½ | 66½ | 69 | 2½ |
| 6 | 28 | 73 | 76 | 3 |
| 7 | 22½ | 65 | 68 | 3 |
| 8 | 21½ | 65½ | 68 | 2½ |
| 9 | 21½ | 72½ | 75 | 2½ |
| 10 | 19½ | 68 | 71½ | 3½ |
| 11 | 24 | 69½ | 72½ | 3 |
| 12 | 24 | 69 | 71½ | 2½ |

The twelve plants of Cinchona Officinalis (a shrubby species) on the Dodabetta Plantation gives an average growth of 2⅘ inches, or $\frac{1}{5}$ of an inch below the growth of last month.

The number of plants issued to the public is 200, making the total number of plants distributed 52,357.

OOTACAMUND,
12th *January* 1865.

(Signed) W. G. McIVOR,
*Supdt., Govt. Cinchona Plantations.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 6.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 11, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th February 1865, and is hereby promulgated for general information :—

Act No. II of 1865.

*An Act to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere.*

Preamble.

Whereas it is expedient to provide for the better maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere; It is enacted as follows :—

"Number."

**1.** In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in districts affected by this Act may assess and collect house tax.

**2.** The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of the District acting under the orders of the local Government to determine what buildings shall be held to be a separate house for the purposes of this Act.

Assessments to be due annually with first instalment of rent.

**3.** The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause 3, Section 23, Act X of 1859.

Regulation IX of 1833, Sections 12 to 15 to apply.

**4.** Sections 12, 13, 14, and 15 of Regulation IX of 1833, shall be applicable to assessments under this Act.

Persons assessed may petition against assessment, and Collector may abate or remit same.

**5.** Any person assessed under Section 2 of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Collector may assess yearly contribution for purposes of this Act.

**6.** It shall be lawful for the Collector or for any Officer making settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor for the purposes of this Act, not exceeding the aggregate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or percentage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

**7.** The sum so assessed shall, subject to the sanction of the local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana Estates.

**8.** The provisions of this Act shall be applicable to Maafee and Nuzerana Estates. Besides the assessments made by the Collector under Section 6 of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

**9.** The local Government may determine by what instalments and at what times, the assessments payable under Sections 6 and 8 shall be paid. Any arrear of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessment.

**10.** Assessments realized under this Act shall be appropriated, under the orders of the local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the local Government for sanatory purposes or any other purpose of general improvement within the District in which the amount is collected.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

**11.** Every proprietor or other person in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on his Estate; and the person so nominated shall after due enquiry be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Jail for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Village Watchmen to perform duties of Policemen under Act V of 1861, in addition to his other duties.

**12.** Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act and guilty of neglect or disobedience, as the case may be.

Power to Government of North-Western Provinces to extend this Act.

**13.** The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX of 1856, or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Governments of India and of the Punjab to extend this Act.

**14.** Subject to the proviso contained in the last preceding Section, the Governor-General of India in Council may extend the provisions of this Act to any Province under the immediate administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his government.

Repeal of inconsistent Rules.

**15.** From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks:—

No. 28 of 1864.

*A Bill to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.*

Preamble.

Whereas, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and, after that office became vacant, in the Chief Commissioner; and whereas since the introduction of the said Code of Civil Procedure doubts have arisen whether such suits are cognizable by the ordinary Civil Courts in the first instance, and by the Judicial Commissioner on appeal, or by the Revenue Courts in the first instance, and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; and whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows:—

Interpretation Clause.

**1.** In the construction of this Act, except when the contrary appears by the context—

Number.

Words in the singular number shall include the plural, words in the plural number shall include the singular,

Gender.

and words denoting the masculine gender shall include the feminine.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

Suits and appeals relating to land during Settlement to be cognizable in Courts of Revenue.

**2.** In any District in the Province of Oude in which a Settlement of the land revenue is being made, all suits of whatever description arising in such District relating to the title or succession to land, or to the possession of land, or to any right in respect of any land shall, during the period of such Settlement and for such further period thereafter as the Governor-General of India in Council, by a notice to be published in the Official Gazette,

may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal or revision by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner.

Powers of Financial Commissioner as highest Court of appeal.

**3.** The Financial Commissioner shall, with respect to such suits, be deemed the highest Court of appeal in the Province of Oude, within the meaning of the said Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court, and shall be subject to all the rules prescribed with reference to the Sudder Court by the said Code, subject to the restrictions, limitations, and provisos with which the said Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations, and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Courts or Authorities before specified.

**4.** No suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in Section 2, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Certain suits by under-tenants not barred by limitation rules in force in Oude.

**5.** No suit by an under-tenant, other than a Ryot or Cultivator, relating to any under-tenure, which shall be cognizable in any Revenue Court under this Act, shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844.

Suits dismissed on ground of limitation-bar may be revived.

**6.** Any suit or appeal relating to any matter cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the Law of Limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within four months from the date of the passing of this Act. The petition may be written on the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court as the case may be.

Questions relating to land accruing after period mentioned in Section 2.

**7.** All claims relating to the proprietary right in, succession to or possession of, any land or any right in respect to any land which may accrue after the expiration of the period appointed in Section 2, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

**8.** No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province, and before the passing of this Act, in or in respect of any suit relating to any proprietary right in, succession to or possession of, any land or any right in respect of any land in the said Province, shall be invalid by reason of any thing contained in the said Code of Civil Procedure.

---

STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced to remove doubts which have arisen as to the legality of the decisions of the Revenue Authorities and the Financial Commissioner of Oude in Judicial cases consequent on the extension to the Province of the Code of Civil Procedure.

Since 1858 the Chief Commissioner has been vested with the powers of Financial Commissioner. The Government of India, under the power reserved in the General Orders of the Governor-General, dated 6th October 1858, which, under the Indian Councils' Act, has the force of law, has lately reconstituted the office under a separate Officer.

The Law of Limitation for the hearing of certain claims to rights of property in land has been extended to twelve years prior to the date at which the Province came under British dominion. This limitation will not extend to claims to rights of occupancy by cultivating tenants.

R. N. CUST.

*The 9th January* 1865.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1865, and was referred to a Select Committee with instructions to make their report thereon in one week :—

No. 2 OF 1865.

*A Bill to continue Act No. XXXI of* 1860.

Preamble.

Whereas Act No. XXXI of 1860 *(relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases)*, is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows :—

Act XXXI of 1860 continued.

**1.** Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

**2.** This Act may be cited as "The Arms Act Continuance Act, 1865."

STATEMENT OF OBJECTS AND REASONS.

Act XXXI of 1860 ("An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases") expires on the last day of October 1865.

The Government of India has directed an enquiry as to the operation of the Act and its incidence on particular classes. Pending such enquiry, the present Bill proposes to continue Act XXXI of 1860 for one year from the expiration thereof.

H. S. MAINE.

*The 2nd February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 29 OF 1864.

*A Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.*

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows :—

Short title.

**1.** This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause. Assistant Commissioner.

**2.** In this Act—

"Assistant Commissioner" shall include Extra Assistant Commissioner.

Grades of Courts in the Central Provinces.

**3.** There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1). The Court of the Tahsildar of the first class.

(2). The Court of the Tahsildar of the second class.

(3). The Court of the Assistant Commissioner of the first class.

(4). The Court of the Assistant Commissioner of the second class.

(5). The Court of the Assistant Commissioner of the third class.

(6). The Court of the Deputy Commissioner.

(7). The Court of the Commissioner.

(8). The Court of the Judicial Commissioner.

Local Government may declare grade to which a Tahsildar or Assistant Commissioner belongs.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Local Government may give Naib Tahsildars jurisdiction up to rupees fifty.

**5.** The Local Government shall also have power to invest such Naib Tahsildars as it shall think competent, with jurisdiction in suits for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage or demand does not exceed in amount or value the sum of fifty rupees.

Jurisdiction of Court of Tahsildar of the first class.

**6.** The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the second class.

**7.** The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

**8.** The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

**9.** The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

**10.** The Court of the Assistant Commissioner of third class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount.

**11.** The Court of the Deputy Commissioner shall have power to try and determine suits of every description exceeding five thousand rupees in value or amount, and to hear appeals from the decisions, and (where an appeal is allowed by the Code of Civil Procedure), from the orders of the Courts of the first, second, third and fourth grades respectively

Jurisdiction of Court of Deputy Commissioner.

**12.** The Court of the Commissioner shall have power to hear and determine appeals from the original decisions passed in suits and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the fifth and sixth grades.

Jurisdiction of Court of Commissioner.

**13.** The Court of the Chief Commissioner shall have power to hear and determine applications for a special appeal as provided in the Code of Civil Procedure from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Jurisdiction of Court of Chief Commissioner.

**14.** Every suit shall be instituted in the Court of the lowest grade competent to try it. Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Court in which suit shall be instituted.

**15.** It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to him, and to try such suit himself or to refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same.

Transfer of suits from subordinate Court to Deputy Commissioner's Court.

**16.** It shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner shall be transferred to any other such subordinate Court competent, in respect of the value of the subject-matter of the suit or appeal, to try the same.

Chief Commissioner or Commissioner of a Division may order transfer of suits from one subordinate Court to another.

**17.** If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate

Suits for immoveable property situate in different Districts.

**18.** If the Districts within the limits of which the immoveable property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority o proceed with the suit.

Suits for immoveable property situate in Districts subject to different Commissioners.

**19.** Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Appeal to lie from all decisions except when expressly prohibited.

**20.** The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Construction of District Court as used in Code of Civil Procedure.

**21.** This Act shall commence and come into operation on the day of 186 .

Commencement of Act.

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STATEMENT OF OBJECTS AND REASONS.

The jurisdiction now exercised by the Civil Courts in the Central Provinces is derived, not from any express provision of law, but from orders passed from time to time by the Executive Government. These orders, bearing a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called in question; but it is felt that the constitution of the Civil Courts in the Central Provinces is not so satisfactory as could be desired; and the Chief Commissioner having requested that the Government of India will be pleased to confer Civil jurisdiction in suits of a small amount upon a class of Officers who have not hitherto exercised any of the functions of a Civil Judge, which cannot be done without a law, it seems desirable that, instead of confining the scope of any Bill introduced to this single object, the opportunity should be taken to place the Civil Courts generally of the Central Provinces on a legal basis similar to that upon which the Courts in British Burmah were placed by Act I of 1863, and to give them a similar legal status. This is the object of the Bill, which follows the form of the British Burmah Act in so far as it defines the jurisdiction of the Courts to which it refers.

H. B. HARINGTON.

*The 5th January* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th January 1865, and was referred to a Select Committee, with instructions to make their report thereon in six weeks :—

No. 30 OF 1864.

*A Bill to define and amend the law relating to Marriage and Divorce among the Parsees.*

Whereas it is expedient to define and amend the law relating to Marriage and Divorce among Parsees; It is enacted as follows :—

Short title.

**1.** This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Parsee."

"Parsee" means or applies to a person professing the religion of Zoroaster, and domiciled in British India.

"Priest."

"Priest" includes Dastúr and Mobed.

"Marriage."

"Marriage" shall mean a marriage between Parsees contracted after the commencement of this Act.

"Section."

"Section" means a Section of this Act.

"High Court."

"High Court" means the highest Civil Court of appeal in any part of British India.

"Local Government."

"Local Government" means the person authorized to administer Executive Government in any part of British India or the Chief Executive Officer of any part of British India under the immediate administration of the Governor General of India in Council when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government.

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

"Gender."

Words importing the masculine gender include females.

Requisites to validity of Parsee marriages.

**3.** No marriage shall be valid, if the parties contracting the same are related to each other in any of the degrees of consanguinity or affinity prohibited by common custom among Parsees, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "A'sírvád" by a Parsee Priest in the presence of two or more Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee under the age of twenty-one years, the consent of his father or guardian shall have been previously given to such marriage.

Registry of marriages.

**4.** Every marriage shall, within eight days after the solemnization thereof, be registered in the form contained in the Schedule to this Act, in a book to be kept by a Registrar, who shall be some proper person appointed for that purpose by the Parsee Panchayat of the Zillah or District in which the marriage shall have taken place; and every entry of a marriage in the said book shall, within the space of eight days from the date of such marriage, be signed by the persons following (that is to say), the said Registrar, the contracting parties, the fathers or guardians of such (not being of full age), the Priest solemnizing the marriage, and the witnesses present at the same; and it shall be incumbent upon the contracting parties respectively, if they shall have attained the age of twenty-one years, and upon the father or guardian of such contracting party (if any) as shall not be then of full age, to give notice to the Registrar of the marriage having been so contracted, and to cause the marriage to be duly reigstered in his said book upon payment to him of the fee of two rupees, to the payment of which fee both the said contracting parties shall, in equal proportions, be liable.

Declaration by persons married.

**5.** Every Parsee, having attained the age of twenty-one years at the time of his or her marriage, shall, immediately upon the said entry thereof being so made in the said register, make and subscribe in the presence of the Registrar, the following declaration below the entry of the marriage in the said register :—

Form of declaration by person married.

"I hereby solemnly declare that the above registry is correct, and that my marriage with did take place as therein mentioned, and was duly solemnized with my consent."

A. B.

*Made and subscribed at this day of before me.*

E. F.
Registrar.

But no husband or wife not having attained the said age at the time of such marriage shall make or subscribe such declaration.

Declaration by father or guardian of infant married.

**6.** The father or guardian of every Parsee who shall not, at the time of his or her marriage, have attained the age of twenty-one years, shall make and subscribe in the presence of the Registrar the following declaration below the entry of the marriage in the said register :—

Form of declaration by father or guardian.

"I do hereby solemnly declare that the above registry is correct so far as regard the particulars therein relating to the said and me, this declarant, and that the marriage therein mentioned was duly solemnized with my consent."

A. B.
Father or guardian of C. D.

*Made and subscribed at this day of before me.*

E. F.,
Registrar.

Marriage register to be open for public inspection.

**7.** Every register of marriages shall, at all reasonable times, be open for public inspection, and certified extracts therefrom shall, on application, be given by the respective Registrars, on payment to them by the applicants of two rupees for each such extract; and every such register shall, without further proof, be received in all Courts to which this Act extends as evidence of the truth of the statements

therein contained, unless and until the same shall be proved to be false.

Penalty for omitting to make declarations.

**8.** Every person required by this Act to make and subscribe any or either of the foregoing declarations, and wilfully omitting or neglecting so to do, shall, on conviction thereof before any Magistrate or other Court having jurisdiction in the place where he may reside, be punished for every such offence with a fine not exceeding one hundred rupees; and every Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the ninth Section of this Act, shall, on conviction thereof before any such Magistrate or Court, be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Re-marriage save after divorce unlawful during life-time of first wife or husband.

**9.** It shall not be lawful for any Parsee to contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorcement from such wife or husband, by sentence of a Pancháyat as is hereinafter provided; and every marriage which may be hereafter contracted contrary to the provisions of this Section shall be deemed void. Every Parsee who shall, during the life-time of his or her wife or husband, contract any marriage without such lawful divorcement from such wife or husband, shall be subject to the penalties provided in the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

Voidability of marriage in case of transportation for life.

**10.** If a Parsee husband or wife shall at any time after marriage be transported or deported for the term of his or her natural life by the sentence of any competent legal tribunal, such marriage shall after the space of one year next following the passing of such sentence, be voidable at the election of his or her wife or husband, such election being first duly notified by the said wife or husband to the Pancháyat of her or his place of residence.

Voidability of marriage in case of lunacy or mental unsoundness.

**11.** If a Parsee shall have been or be a lunatic or of habitually unsound mind at the time of his or her marriage, such marriage shall be at any time voidable by the Pancháyat of his or her last place of residence at the instance of his or her wife or husband, upon proof, to the satisfaction of the same Pancháyat, that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues.

Voidability of marriage in case of absence for seven years.

**12.** If a Parsee husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of within that time by such his or her wife or husband as being alive, their marriage shall be voidable by the Pancháyat of his or her last known domicile at the instance of the said wife or husband of such absent husband or wife, upon proof of the aforesaid facts being made to the satisfaction of the same Pancháyat.

Voidability of marriages on the ground of impotency.

**13.** In any case where the husband shall be unable to consummate the marriage by reason of impotency of a permanent and incurable description, or where consummation of the marriage has not taken place in consequence of the wife's malformation, such marriage shall be voidable by the Pancháyat of his or her last known domicile at the instance of the other party to such marriage, upon proof of the aforesaid facts being made to the satisfaction of the same Pancháyat: Provided that the husband shall not set up his own impotency as a ground for nullifying his marriage.

Voidability of marriage in case of conversion.

**14.** A marriage in case either of the parties thereto shall have changed his or her religion shall be voidable by the Pancháyat of his or her last known domicile, at the instance of the other party to such marriage, upon proof of such fact being made to the satisfaction of the same Pancháyat.

Husband's petition for dissolution of marriage.

**15.** It shall be lawful for any Parsee husband to present a petition to the Pancháyat of the proper domicile that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and it shall be lawful for any Parsee wife to present a petition to the Pancháyat of the proper domicile, praying that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery or fornication with any married or unmarried woman, not being a prostitute, or of bigamy coupled with adultery, or of rape, or of an unnatural offence.

Wife's petition for dissolution of marriage.

Grounds of judicial separation *a mensâ thoro.*

**16.** If a Parsee husband treat his Parsee wife with such cruelty or personal violence as to render it in the judgment of the Pancháyat or other lawful tribunal improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation *a mensâ et thoro*, and her husband shall, in such a case, provide her with separate maintenance, so long as she continues of chaste conduct, according to his means and rank in life; but no divorce shall be granted for cruelty, except in the case specified in the fifteenth Section.

Petition for divorce or judicial separation.

**17.** Applications for divorce or for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the Pancháyat of the town or district in which the respondent resides or last resided, which Pancháyat is hereby authorized and required to hear and determine such petition; and on the said Pancháyát's being satisfied of the truth of the allegations contained in such petition, and that the offence therein set forth has not been condoned, and that the said husband and wife are not colluding together to obtain a divorce, and that the petitioner has not connived at, or been party to, the said offence, and that there has been no unnecessary or improper delay in presenting the said petition, and that there is no legal ground why the same should not be granted, then and in such case, but not otherwise, the said Pancháyat shall and may decree such divorce or udicial separation accord-

ingly; and where any such application is made by the wife, may order the husband or secure to the wife out of his property such gross or capital sum, or such monthly or periodical payments of money for any term not exceeding her life as, having regard to her own property (if any), her husband's said property, and the conduct of the parties, shall be deemed just, or make any other order in that behalf for alimony, which, regard being had to the circumstances aforesaid, shall be deemed just. And in case any such order shall not be obeyed by her husband, he shall be liable to action upon the same at her suit, and further to be sued by any persons supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Alimony may be ordered.

**18.** Where a husband has deserted or (without lawful cause) ceased to cohabit with his wife, or shall hereafter so desert or (without lawful cause) so cease to cohabit, or where a wife hath deserted or (without lawful cause) ceased to cohabit with her husband, or shall hereafter so desert or (without lawful cause) so cease to cohabit, and the party so deserted or with whom cohabitation hath or shall have so ceased, shall apply to the Pancháyat of the District or place within which the other party may reside, by petition for the restitution of his or her conjugal rights, the said Pancháyat shall thereupon proceed duly to cite the party respondent to such petition, and duly to take evidence in that behalf and inquire into the allegations of such petition, and shall, upon being duly satisfied of the truth of the said allegations, and that there is no just ground why the said petition should not be granted, proceed to decree such restitution of conjugal rights accordingly. In case such decree shall not be obeyed by the party against whom it is given, he or she shall be deemed a wrong-doer, and liable in damages thereupon in an action on the case at the suit of the other party.

Petition for restitution of conjugal rights.

**19.** The Pancháyat of any Town or District nominated and appointed in manner hereinafter mentioned shall have power and authority to hear, determine and adjudicate all cases and questions arising under this Act between Parsee inhabitants of such Town or District.

Parsee Pancháyat to try all questions under this Act.

**20.** The said Pancháyat shall have power to summon and examine both parties and their witnesses on oath or affirmation; and the decisions of such Pancháyats, if not reversed or altered on the appeal given by the twentythird Section shall be final, and shall be upheld by all legal tribunals; provided nevertheless that it shall always (after any final decree for a divorce, either by the Pancháyat or upon appeal, or after the expiration of the time hereinafter limited for an appeal, without an appeal against any such decree for a divorce, having been presented) be lawful for the parties thereby divorced to intermarry together again; and every witness duly summoned, who shall intentionally omit to attend at the time and place specified in such summons, or depart from such place before the time at which it is lawful for him to depart, or who shall intentionally omit to produce or deliver up any document which he may be legally required to produce or deliver up, or who shall refuse to answer any question which he may be legally required to answer, shall, on proof of the facts before any Magistrate or Court having jurisdiction with respect to the offence, be liable to the punishment provided in Sections 174, 175 and 179 respectively of the Indian Penal Code, and all persons wilfully deposing or affirming falsely in any proceeding before the Pancháyat, shall be deemed to be guilty of the offence of giving false evidence, and shall be liable, on conviction before a competent tribunal, to all the pains and penalties attached thereto.

Pancháyat may examine parties and witnesses on oath and its decision shall be final.

**21.** The examination of parties and of witnesses in any cause or proceeding under this Act shall be taken orally and openly in and by the Pancháyat in the presence and hearing and under the personal direction and superintendence of the said Pancháyat; and the evidence of each witness shall be taken down in writing, and the proceedings of the said Pancháyat shall be conducted and recorded in the vernacular language by the President, Secretary, or other Officer appointed for that purpose by the said Pancháyat. And every such examination shall be taken and recorded in the form of a narrative, and when completed shall be read over in the presence of the said Pancháyat and of the witness, and also in the presence of the party or parties or their representatives, and certified by the President of the said Pancháyat or any member thereof acting as President thereof for the time being. The Pancháyat shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

Mode of examination.

**22.** When the evidence of a witness is required who is not living in the Town or place where the said Pancháyat is held, or who is unable from sickness or infirmity or other cause to attend before the said Pancháyat, the said Pancháyat may authorize the Pancháyat of the place where the witness may be residing, or any one or more person or persons thereat resident, or may depute thither one or more of its own members or Officers to take down the examination of such witness on interrogatories or otherwise; and every such examination shall be taken down in writing, and shall be read over to and shall be duly certified by the persons so authorized to take the same; and shall form part of the record of the cause or proceeding in which it is taken. In every such case either party shall be entitled to be present in person or by representative at much examination.

Examination of absent witnesses.

**23.** An appeal shall lie from the decision of the Pancháyat to the High Court on the ground of the decision being contrary to some law, or usage having the force of law, or of a substantial error or defect in the investigation of the case which may have produced error or defect in the decision of the case upon the merits, or of any grave misconduct of the Pancháyat in relation to any of the matters aforesaid; provided that such appeal be instituted within three months after the decision of the Pancháyat shall have been pronounced.

Appeal to High Court.

**24.** On an appeal being made to the High Court in conformity with the provisions contained in the twentythird Section, the Pancháyat from whose decision

On appeal, record and papers to be sent to High Court.

such appeal is preferred shall, upon receiving due intimation thereof, send to the said High Court, with all practicable despatch, the record of the case, together with all material papers in the cause or proceeding, or such papers as may be specially called for by the High Court in that behalf.

Act not to apply to marriages solemnized before passing of Act.

**25.** Nothing herein contained shall apply to any marriage or ceremony of marriage performed before the passing of this Act, or in any wise affect the same, whether by giving validity thereto, or by invalidating the same. And the validity or invalidity thereof respectively shall be, and continue to be, the same as it was at the time of the passing of this Act.

Form of application to Pancháyat.

**26.** Every application made to a Pancháyat under this Act shall be in writing and shall be subscribed by the applicant or his or her representative (if any). It shall also be verified at the foot by the applicant in the manner following or to the like effect :—

Form of verification.

"I (A B), the applicant named in the above application, do declare that what is stated therein is true, to the best of my information and belief."

Punishment for making false averments.

**27.** If any such application shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabrication of false evidence.

Number of Pancháyat.

**28.** The Pancháyat for adjudicating cases arising under this Act shall, for the Town and Island of Bombay, consist of twelve members, of whom one shall be President, and for other Towns or Districts of such number of members, not exceeding twelve and of whom one shall be President, as the Local Government may see fit to fix; and shall be elected, constituted, and appointed according to such Rules and Regulations, in regard to the qualifications of electors and members and other matters as may be hereafter sanctioned and approved of by the Governor in Council of the Presidency or place: Provided that in the Town and District of Surat the Office of President of of the Pancháyat shall be hereditary in the family of Khurshedji Dodabhái deceased, Dawur of the Parsees of Surat, and shall be held by the person who shall for the time being be the senior representative, according to the Parsee law of inheritance, of the said Khurshedji Dodabhái.

President of Surat Pancháyat.

Pancháyat may alter rules.

**29.** Any Pancháyat duly constituted and appointed as aforesaid shall have power to alter, vary, or amend such rules from time to time, subject to the confirmation of the Local Government, who shall determine and may alter the territorial jurisdiction of each Pancháyat, the limits of the jurisdiction so determined or altered being promulagated in the *Official Gazette*.

Commencement and extent of Act.

**30.** This Act shall commence and take effect on the first day of July 1865, and shall extend to all the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106.

THE SCHEDULE ABOVE REFERRED TO.

| Date and Place of Marriage. | Names of the Husband and Wife. | Condition at the time of Marriage. | Rank or Profession. | Age. | Residence. | Names of the Fathers or Guardians. | Rank or Profession. | Signature of the Officiating Priest. | Signatures of the Witnesses. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

STATEMENT OF OBJECTS AND REASONS.

The object of the present measure is to enforce among the Parsee community the duties and obligations arising out of the marriage union. By a decision of her Majesty's Privy Council in 1856, it was ruled that the Supreme Court of Bombay on its ecclesiastical side, had no jurisdiction to entertain suits instituted by a Parsee wife for restitution of conjugal rights or for maintenance. It has been represented by a large number of Parsees, who from character and social position are regarded as leaders by their co-religionists, that bigamy has been introduced into their community, because, since the decision of the Privy Council, there has been no tribunal to vindicate the obligations of marriage, and none with authority to dissolve marriages on adequate cause being shown. Urgent petitions have therefore been addressed to the Government of India and to Her Majesty's Secretary of State for India, praying that, with respect to this most important relation of life, the Parsees may receive the sanction and protection of a legislative enactment.

The present measure renders bigamy by Parsees an offence, and subjects it to the penalties prescribed in the Penal Code. On the other hand it declares the grounds on which divorces may be granted. It gives jurisdiction for the vindication of obligations and duties arising out of marriages and for the dissolution of marriages, to the ancient institution of the Parsee Pancháyat. Appeal from the decision of the Pancháyats is allowed within a stated time to the High Courts of the respective Presidencies.

The measure has in substance been prepared by representatives of the Parsee community.

H. L. ANDERSON.

*The 16th January* 1865.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt of India,*
*Home Department (Legislative).*

## HOME DEPARTMENT.

No. 1070 A.

*Fort William, the 3rd February* 1865.

The following Notification relative to an Examination of candidates for the Covenanted "Civil Service of India" to be held in June of this year, is published for general information :—

EXAMINATIONS FOR THE CIVIL SERVICE OF INDIA.

REGULATIONS

*For the Open Competition of* 1865.*

1. In June 1865 an Examination of candidates will be held in London. Not less than candidates will be selected, if so many shall be found duly qualified. Of these, will be selected for the Presidency of Bengal, [ for the Upper Provinces, and for the Lower Provinces,] for that of Madras, and for that of Bombay.†—Notice will hereafter be given of the days and place of examination.

2. Any natural-born subject of Her Majesty, who shall be desirous of entering the Civil Service of India, will be entitled to be examined at such Examination, provided he shall, on or before the 1st May 1865, have transmitted to the Civil Service Commissioners, Dean's Yard, London, S. W.—

*(a)* A certificate of his birth, showing that his age on the 1st May 1865 will be above seventeen years and under twenty-two years.‡

*(b)* A certificate, signed by a physician or surgeon, of his having no disease, constitutional affection, or bodily infirmity, unfitting him for the Civil Service of India;

*(c)* Satisfactory proof of good moral character;

*(d)* A statement of those of the branches of knowledge hereinafter enumerated in which he desires to be examined.§

3. In any case in which a doubt may arise as to the eligibility of a candidate in respect of age, health, or character, such inquiries as may be necessary will be instituted by the Civil Service Commissioners.

4. The Examination will take place only in the following branches of knowledge‖ :—

| | Marks. |
|---|---|
| English Language and Literature— | |
| Composition ... ... ... | 500 |
| English Literature and History, including that of the Laws and Constitution ... ... | 1,000 |
| | 1,500 |
| Carried over ... | 1,500 |
| Brought forward ... | 1,500 |
| Language, Literature, and History of Greece ... ... ... | 750 |
| Ditto ditto of Rome ... | 750 |
| Ditto ditto of France ... | 375 |
| Ditto ditto of Germany ... | 375 |
| Ditto ditto of Italy... ... | 375 |
| Mathematics, Pure and Mixed ... | 1,250 |
| Natural Science; that is, (1.) Chemistry, (2.) Electricity and Magnetism, (3.) Natural History, (4.) Geology, and (5.) Mineralogy ... | 500 |
| *** No candidate will be allowed to be examined in more than three of the branches of knowledge included under this head, and the total (500 marks) may be obtained by adequate proficiency in any three. | |
| Moral Sciences; that is, Logic, Mental and Moral Philosophy ... | 500 |
| Sanskrit Language and Literature ... | 375 |
| Arabic Language and Literature ... | 375 |
| | 7,125 |

5. The merit of the persons examined will be estimated by marks, and the number set opposite to each branch in the preceding regulation denotes the greatest number of marks that can be obtained in respect of it.

6. No candidate will be allowed any marks in respect of any subject of Examination unless he shall be considered to possess a *competent knowledge* of that subject.*

7. The Examination will be conducted by means of printed questions and written answers, and by *vivâ voce* Examination, as may be deemed necessary.

8. The marks obtained by each candidate, in respect of each of the subjects in which he shall have been examined, will be added up, and the names of the candidates who shall have obtained a greater aggregate number of marks than any of the remaining candidates will be set forth in order of merit, and such candidates shall be deemed to be selected candidates for the Civil Service of India. They shall be permitted to choose, according to the order in which they stand, as long as a choice remains, the Presidency (and in Bengal, the division of the Presidency) to which they shall be appointed.

9. Selected candidates before proceeding to India will be on probation for two years, during which time they will be examined periodically with the view of testing their progress in the following subjects† :—

| | Marks. |
|---|---|
| 1. Oriental Languages— | |
| Sanskrit ... ... ... ... | 500 |
| Vernacular Languages of India (each) | 400 |
| 2. The History and Geography of India... | 350 |
| 3. Law ... ... ... ... ... | 1,250 |
| 4. Political Economy ... ... ... | 350 |

In these Examinations, as in the open competition, the merit of the candidates examined will be estimated by marks, and the number set opposite to

* The Regulations are liable to be altered in future years.

† The number of appointments to be made, and the number in each Presidency, &c., will be announced hereafter.

‡ In future competitions it is intended that the maximum limit of age shall be 21.

§ Candidates are at liberty to send in their names and evidence of age as soon as they think fit to do so; but evidence of health and character must bear date not earlier than the 1st April 1865.

‖ It should be understood that candidates are at liberty to name at their pleasure any or all of these branches of knowledge (subject only to the restriction above mentioned as to Natural Science), and that no subjects are *obligatory*.

* "Nothing can be further from our wish than to hold out premiums for knowledge of wide surface and of small depth. *We are of opinion that a candidate ought to be allowed no credit at all for taking up a subject in which he is a mere smatterer.*"—Report of Committee of 1854.

† Full instructions as to the course of study to be pursued will be issued to the successful candidates as soon as possible after the result of the open competition is declared.

each subject denotes the greatest number of marks that can be obtained in respect of it at any one Examination. The Examination will be conducted by means of printed questions and written answers, and by *vivâ voce* Examination, as may be deemed necessary. The marks obtained at each of such periodical Examinations will be added to those previously or subsequently obtained. The last of these Examinations will be held at the close of the second year of probation, and will be called the "Final Examination," at which it will be decided whether a selected candidate is qualified for the Civil Service of India.

10. No candidate will be permitted to proceed to India until he shall have passed the Final Examination, and received a certificate of qualification from the Civil Service Commissioners, or after he shall have attained the age of twenty-four years and six months.*

11. The selected candidates who at the Final Examination shall be found to have a competent knowledge of the subjects specified in Regulation 9, shall be adjudged to have passed, and to be entitled to be appointed to the Civil Service of India.

12. The seniority in the Civil Service of India of the selected candidates shall be determined according to the order in which they stand on the list resulting from the Final Examination.

13. No person will, even after passing the Final Examination, be allowed to proceed to India unless he shall comply with the regulations in force, at the time, for the Civil Service of India, and shall be of sound bodily health and good moral character.—The Civil Service Commissioners will require such further evidence on these points as they may deem necessary before granting their Certificate of Qualification.

14. Applications from persons desirous to be admitted as candidates are to be addressed to the Secretary to the Civil Service Commissioners, Dean's Yard, London, S.W.

NOTE.—(1.) *The Secretary of State for India in Council has authorized the Civil Service Commissioners to state that it is his intention to allow the sum of* 100*l.* *for the first year of probation, and* 200*l.* *for the second year to each selected candidate who shall have passed the required Examinations to the satisfaction of the Commissioners, and shall have complied with such rules as may be laid down for the guidance of selected candidates.*

(2.) *All selected candidates will be required, at the commencement of the 2nd year of probation, to attend at the India Office, to make the necessary arrangements for entering into covenants (binding themselves, amongst other things, to refund in certain cases the amount of their allowance in case of their failing to proceed to India), and for giving a bond for* 1,000*l.*, *jointly with two sureties, for the due fulfilment of the same. The stamps payable by Civilians on their appointment amount to* 3*l.* 10*s.*

(3.) *Candidates rejected at the Final Examination of* 1867 *will in no case be allowed to present themselves for re-examination.*

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No. 1202 A.

NOTIFICATIONS.

*Fort William, the 4th February* 1865.

Mr. James C. Robertson, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years, from the date of embarkation.

* In future years it is intended that the limit shall be 24.

No. 1205.

*The 7th February* 1865.

The under-mentioned Covenanted and Uncovenanted Civil Servants having produced the necessary medical certificates, have been granted by the Right Hon'ble the Secretary of State for India extensions of leave for the periods specified, viz. :—

*Covenanted.*

| | | |
|---|---|---|
| Mr. C. B. Thornhill | ... | 2 Months. |
| „ G. B. Willock | ... | 6 „ |
| „ W. C. Eades | ... | 6 „ |
| „ W. B. Jones | ... | 3 „ |
| „ R. Wall | ... | 6 „ |
| „ J. Sladen | ... | 6 „ |

*Uncovenanted.*

| | | |
|---|---|---|
| Mr. M. Wylie | ... | 3 Months. |

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No. 1205 A.

*The 8th February* 1865.

The Right Hon'ble the Governor General in Council is pleased to re-attach to the Bengal Division of the Presidency of Fort William, Lord H. Ulick Browne, of the Civil Service, who reported his return from furlough on this date.

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No. 1264.

Mr. Charles Currie, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years, from the date of embarkation.

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No. 1265.

The Governor General in Council is pleased to permit Mr. F. A. E. Dalrymple to resign the Civil Service from the 9th instant.

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No. 1266.

The under-mentioned Officer in the Central Provinces is invested with the powers of a Subordinate Magistrate of the 2nd Class, described in Section 22 of Act XXV of 1861 :—

Lieutenant R. M. B. Thomas, Assistant Commissioner, Jubbulpore District.

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No. 1267.

The services of Mr. L. F. Dickson, in Medical charge of Chanda, are placed at the disposal of the Foreign Department.

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No. 1268.

Mr. N. A. Garstin, Assistant District Superintendent of Police, officiated as District Superintendent of Seetapoor from the forenoon of the 30th November to the afternoon of the 7th December 1864, and at Gonda from the afternoon of the 9th December to the forenoon of the 16th January 1865.

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No. 1269.

The under-mentioned Officer in the Central Provinces is invested with the powers of a Subordinate Magistrate of the 1st Class, described in Section 22 of Act XXV of 1861 :—

Ajoodhea Pershad, Tehseeldar of Droog, in the Raepore District.

No. 1270.

*Erratum.*—In Notification No. 5767, dated the 25th of November last, for "*Assistant District Superintendent of Police in the Central Provinces,*"

read—

"*Officiating Assistant District Superintendent of Police in the Central Provinces.*"

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No. 1271.

*The 9th February* 1865.

His Excellency the Governor General in Council is pleased to invest the under-mentioned Tehseeldars in the Central Provinces with the powers of a Subordinate Magistrate of the Ist and IInd Class, described in Chapter II, Section 22 of Act XXV of 1861:—

| | |
|---|---|
| Nara Bheekajee ... | Ist Class. |
| Govind Rao Gunesh... | IInd Class. |
| Madho Rao ... | IInd Class. |

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No. 1272.

*The 10th February* 1865.

Mr. Prince, Senior Inspector of the Lucknow City Police, is appointed to officiate as Assistant District Superintendent of Police, during the absence on leave of Lieutenant C. S. Noble, or until further orders.

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No. 1273.

Three months' privilege leave of absence is granted to Mr. F. Macnaghten, Judge of the Small Cause Court at Jubbulpore, from the 1st March 1865, or from such subsequent date as he may avail himself of the same.

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No. 1274.

Mr. B. C. Bailey, Superintendent of Telegraphs, in Charge of the East Coast Circle, to officiate as Director of the Western Division.

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No. 1[illegible]

*The 10th February* 1865.

The Revd. J. Dawson, Assistant Chaplain of the Church of Scotland, on the Bengal Establishment, reported his departure from India per Steamer "Erymanthe" on the 3rd instant.

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No. 1276.

Lieutenant J. W. W. Costley, 23rd Regiment Royal Welsh Fusiliers, appointed to officiate as Assistant Superintendent of Police in Notification No. 5777, dated 25th November 1864, reported his arrival at Rangoon on the afternoon of the 21st January 1865.

E. C. Bayley,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

Judicial.

No. 41.

*Fort William, the 7th February* 1865.

Notification No. 275, dated 17th November 1864, investing Lieutenant H. C. A. Szczepanski, Assistant Commissioner, Hyderabad, with the powers of a Magistrate under Section 1 of Act XV of 1862, is hereby cancelled.

Lieutenant Szczepanski is invested with the powers of a Magistrate as defined in Section 22, Act XXV, 1861.

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Military.

No. 64.

Lieutenant M. J. J. Mignon, Adjutant, 2nd Regiment Central India Horse, has obtained privilege leave of absence for two months, from the 10th instant.

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General.

No. 291.

Captain A. B. Cumberlege, Deputy Commissioner of Sumbulpore, in the Central Provinces, has obtained privilege leave of absence for three months, from the date on which he may avail himself of it.

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No. 293.

Mr. D. Simson, Commissioner of the Fyzabad Division, in Oudh, has obtained leave of absence for twenty-nine days, from the date on which he may avail himself of it, to proceed to Calcutta, preparatory to applying for furlough to Europe.

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No. 295.

With reference to G. O. No. 1552, dated 13th December 1864, Captain W. H. Beynon resumed charge of the Jyepore Political Agency on the 18th January 1865.

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No. 313.

*The 9th February* 1865.

Mr. G. W. Cline, Extra Assistant Commissioner in the Central Provinces, has obtained one year's leave to England on medical certificate, from the 9th June 1864.

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No. 315.

Major R. Ranken, Assistant General Superintendent of operations for the suppression of Thuggee and Dacoitee at Jubbulpore, returned to his duty on the afternoon of the 16th ultimo, from the leave granted him in G. O. No. 236, dated 30th January 1865.

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No. 332.

*The 10th February* 1865.

Lieutenant G. E. Fryer, Assistant Secretary to the Chief Commissioner of British Burmah, assumed charge of his Office on the 21st January 1865.

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No. 333.

Colonel G. Ramsay made over charge of the Nipal Residency to Captain C. C. Taylor, Assistant Resident, on the forenoon of the 1st instant.

No. 334.

Captain W. Munro, Supernumerary Assistant Commissioner, 3rd Grade, in British Burmah, and Lieutenant H. A. Gower, of the Royal Madras Artillery, have passed the prescribed examination in the Burmese language for Civil employ in British Burmah.

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No. 335.

Colonel Reynell G. Taylor, C. B., has obtained one month's leave from the 28th January last, to enable him to join his appointment in the Punjab Commission.

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No. 337.

Mr. R. S. H. Haldane, Extra Assistant Commissioner in Oudh, has obtained privilege leave of absence for three months, from the date on which he may avail himself of it.

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No. 339.

Assistant Surgeon W. J. Moore received charge of the Office of Superintendent of Raj Dispensaries, from Assistant Surgeon T. M. Lownds, on the afternoon of the 14th January 1865.

A. COLVIN,

*Offg. Under Secy. to the Govt. of India.*

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## FINANCIAL DEPARTMENT.

No. 735.

*Fort William, the 10th February* 1865.

NOTIFICATIONS.

*From the Right Hon'ble the Secy. of State for India, to His Excellency the Right Hon'ble the Governor General of India in Council,—No.* 305, *dated 24th December* 1864.

I have to acquaint you that the rate of Exchange for Bills to be drawn in repayment of advances to be made by the several Governments in India, for the service of the Royal Navy, and for the Public Service in China, in the official year 1865-66, has been fixed, with the concurrence of the Lords Commissioners of the Treasury, at two shillings (2*s*.) the Rupee.

2. You will direct the same rate to be observed in 1865-66, in respect of Officers' Family remittances and effects.

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Ordered, that the above-mentioned Despatch be published in the *Gazette of India* for general information.

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No. 783.

Mr. W. E. Gordon received charge of the Office of First Assistant Auditor General of India on the forenoon of the 6th February 1865.

E. H. LUSHINGTON,

*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 4th February* 1865.

*No.* 133 *of* 1865.—Major General Lord George Paget, C. B., Commanding the Sirhind Division, is allowed leave of absence from the 19th February to the 14th March next, to visit Bombay, preparatory to proceeding to Europe.

---

*The 6th February* 1865.

*No.* 134 *of* 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps, with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India:—

| | |
|---|---|
| Lieutenant George Scott Hills, of the late 38th Regiment Native Infantry, Quarter Master, 28th (Punjab) Regiment Native Infantry | 16th January 1863. |

---

*No.* 135 *of* 1865.—The services of Lieutenant F. W. Major, of the Royal Artillery, a candidate for the Staff Corps, are placed at the disposal of the Foreign Department.

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*No.* 136 *of* 1865.—The rules laid down by Government General Order of the 25th October 1822, for the appointment of European Station Butchers, and the conduct of the duties entrusted to them, being no longer fully applicable, owing to the various changes that have taken place in the system of rationing the British Troops, the following are promulgated for future guidance, in supersession of previous rules:—

1. At every station occupied by an European Garrison, not less in strength than one Regiment, a European Station Butcher of suitable qualifications, and of good character and sober habits, to be carefully selected, by the Officer Commanding, from the European Troops quartered at the station, is to be appointed, in Station Orders, for the supervision, under the orders of the Executive Commissariat Officer, of the slaughter-yard and slaughter cattle.

2. The Butcher so appointed will march with his corps on its removal from the Garrison, when his place will be filled by another nomination.

3. The Staff pay of a Butcher will be Rs. 20 per mensem.

4. As it is necessary for Station Butchers to reside near the cattle pens, with the supervision of which and the selecting of the cattle for slaughter their duties are specially connected, quarters will be provided for them when necessary in a suitable locality; pending the construction or provision of which, and so long as it is necessary for them to hire quarters, house-rent, not exceeding Rs. 15 per mensem, will be passed on the certificate of the Executive Commissariat Officer, that the Butcher is occupying quarters in the vicinity of the pens.

5. The Butcher will, however, be quartered in his own barracks when these are not too far from the slaughter-house and cattle pens; and pony allowance at Rs. 10 per mensem will be granted specially to him when the necessity for it may be shown by the Executive Commissariat Officer, through the Head of his Department.

6. All pay and allowances accruing to a Station Butcher will be drawn for in the Regiment to which he belongs; and, on staff pay being drawn for the first time for an European Butcher, a certified extract of the Station Order appointing him should be attached to the pay abstract of his Regiment. This will be sufficient authority for the Pay Department, and confirmation of the Station Order in General Orders is unnecessary.

7. In all other respects he will be at the disposal of the Executive Commissariat Officer, under whose orders his duties will be as follows:—

I. By daily careful inspection to see that the full stock of cattle and sheep are duly kept up by the contractor as per contract deed, as also the stipulated quantity of fodder; that the animals are regularly watered twice a day, or more frequently if necessary; and that they daily get the prescribed quantity of fodder (according to the season), and of salt,—and that the pens and slaughter-yards are kept thoroughly clean.

II. He will also superintend and direct the whole process of preparing the meat intended to be served out to the Troops, and it will be his bounden duty to bring any omissions or abuse on the part of the contractors or their people, to the immediate notice of the Executive Commissariat Officer.

III. After the meat has been prepared, he should mark it, and take such other precautions to prevent its being changed as may be found necessary. He will also attend at the ration stands whenever he may be required to do so by the Executive Commissariat Officer.

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*No.* 137 *of* 1865.—The Troops noted in the margin having embarked for England, are struck off the strength of the Bengal Presidency, from the dates of their respective embarkation.

| | |
|---|---|
| Her Majesty's 48th Foot, per "Patrician," 29th December 1864. | |
| Head Quarters C. Brigade, Royal H. Arty. | Per "Shannon," 14th January 1865. |
| A. Battery " | |
| B. Battery " | |

---

*No.* 138 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Surgeon John Wilson, of the Madras Medical Establishment. | For 20 months, under the new Regulations. |
| Major John Robert Alexander Shakespear Lowe, of the Bengal Staff Corps, Deputy Assistant Commissary General. | For 20 months. |

---

*The 7th February* 1865.

*No.* 139 *of* 1865.—The under-mentioned Non-commissioned Officer is admitted to pension, as specified opposite to his name:—

| | |
|---|---|
| Sergeant Thomas McGuire, of the local Company of European Infantry. | Rs. 30 (thirty) per mensem, payable in India. |

---

*No.* 140 *of* 1865.—Major H. Mills, Sub-Assistant Commissary General, is allowed leave of absence from the 1st February 1865 to date of embarkation, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe.

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*No.* 141 *of* 1865.—The leave of absence on private affairs granted to Surgeon J. W. Mountjoy, of the Medical Department, in Government General Order No. 715 of the 30th November 1863, and extended in Government General Order No. 623 of 1864, is to be held to have had effect from the 7th October 1863 to the 7th April 1864, instead of the dates previously fixed.

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*No.* 142 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Lieutenant Colonel Henry Currey James, of the Bengal Staff Corps, Private Secretary to the Hon'ble the Lieutenant Governor of Bengal. | For 20 months. |
| Major Henry Mills, of the Bengal Staff Corps, Sub-Assistant Commissary General. | For 20 months. |
| Captain Julius D. Laurie, of Her Majesty's 34th Foot, District Inspector of Musketry, 5th Division. | For 20 months, under the new Regulations. |

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*No.* 143 *of* 1865.—The following promotions are made in the under-mentioned Corps of the Native Army:—

| Corps. | Rank and Names. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| Governor General's Body Guard. | Jemadar Byzoo Singh ... | Subadar, and appointed Subadar Major. | 1st Oct. 1864 | Cullum Ally, invalided. |
| Ditto ... | Havildar Shaikh Jehangeer Bux ... | Jemadar ... | 1st " " | Byzoo Singh, promoted. |
| 5th Regt. Native Light Infantry. | Havildar Persaud Singh ... | Ditto ... | 29th Nov. " | Banarussie Chowbey, deceased. |
| 19th (The Punjab) Regt. Native Infantry. | Jemadar Kohr Singh ... | Subadar ... | 10th Dec. 1864 | Sirbaz Khan, resigned. |
| Ditto ... | Havildar Churn Singh ... | Jemadar ... | 10th " " | Kohr Singh, promoted. |

*The 8th February* 1865.

*No.* 144 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Lieutenant Colonel Robert Maclagan, of the Royal Engineers, Chief Engineer and Secretary to the Government of the Punjab, Department of Public Works. | For 15 months, under the new Regulations. |
| Lieutenant Charles David Peter Nott, of the late 4th European Regiment. | For 20 months, under the new Regulations. |

*No.* 145 *of* 1865.—In conformity with Government General Order No. 144 of 1852, the following Statement of Deposits made at the Presidency Pay Office, during the month of January 1865, on account of the Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of the Indian Military Forces of Her Majesty, is published for general information; and it is hereby notified that claims to the Estates in question, which shall not be preferred to the Presidency Pay Master by Executors and Administrators, before the conclusion of twelve months after the date of decease, cannot be attended to in this country, as the money after that period will be remitted to, and made payable by the Secretary of State for India.

*Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of Her Majesty's Indian Military Service, in the month of January* 1865.

| Date of Deposit. | On whose account. | Rank. | Corps. | General Number. | Date of decease. | Testate or Intestate. | Amount of monies accruing from the adjustment of Estates. | Amount of Donation Batta due to Estates. | Total unclaimed amount deposited. | How disposed of. Amount paid in India. | Amount retained in India. | Amount remitted for payment in England. In Co.'s Rupees. | Equivalent in Sterling. | Rate of Exchange. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Commissioned and Warrant Officers.* | | | | | | Rs. A. P. | | Rs. A. P. | | | | | |
| 10th Jan. 1865 | (*a*) Thomas Kirkpatrick ... | Captain ... | Madras Staff Corps ... | ... | 12th June 1864 | Intestate | 264 8 6 | ... | 264 8 6 | | | | | |
| 14th " " | L. R. Newhouse ... | Brevet Captain ... | 5th European Regt. ... | ... | ..... | ... | 13 15 2 | ... | 13 15 2 | | | | | |
| 18th " " | (*b*) John Borthwick ... | Asst. Comy. ... | Ord. Comt. Dept. ... | ... | 26th May 1864 | Testate | 266 9 9 | ... | 266 9 9 | | | | | |
| 30th " " | (*c*) Hotham Taylor Woodcock | Lieutenant ... | Genl. List, Infy., Bl. Army | ... | 17th Nov. 1863 | Intestate | 91 13 0 | ... | 91 13 0 | | | | | |
| | *Non-Commissioned Officers and Soldiers.* | | | | | | | | | | | | | |
| 10th " " | (*d*) Joseph Shaw ... | Magazine Sergeant | Ordnance Department ... | ... | 25th June 1864 | Testate | 654 4 3 | .. | 654 4 3 | | | | | |
| 18th " " | (*e*) James Scott ... | Bombardier ... | 1st By. Bengal Artillery | 11,130 | 26th Oct. 1864 | Intestate | 335 1 6 | ... | 335 1 6 | | | | | |
| 24th " " | (*f*) William Robinson .. | Private ... | Late 1st En. Bl. Fusiliers | ... | 1st Aug. 1858 | ... | 11 1 0 | ... | 11 1 0 | | | | | |
| 24th " " | (*g*) John Brierly ... | Sergeant ... | Sappers & Miners ... | .. | 3rd Sept. 1864 | Testate | 1,533 10 0 | ... | 1,533 10 0 | | | | | |
| 24th " " | (*h*) Samuel Store Marriott ... | Overseer Sergeant | Public Works Dept. ... | ... | 30th June 1864 | Intestate | 680 8 0 | ... | 680 8 0 | | | | | |
| | Total Rupees ... | ..... | ..... | ... | ..... | ... | 3,851 7 2 | ... | 3,851 7 2 | | | | | |

(*a*) Next of kin, brother, Surgeon Major James Kirkpatrick, Bangalore.
(*b*) Widow, Mrs. Agnes Borthwick, and six children.
(*c*) Next of kin, brother, Captain E. Woodcock (Bombay Staff Corps), District Superintendent of Police, Seetapore, Oudh.
(*d*) Legatee, mother, Mary Shaw, deceased, next of kin, sister, Mary Walker Barber, Maholah, Meerut.
(*e*) Next of kin, mother, Elizabeth Scott, Lambeth, Surrey, England.
(*f*) Next of kin, not known.
(*g*) Widow, Mrs. Margaret Brierly, Hedridgey, Derbyshire, England.
(*h*) Widow, Mrs. Mary Marriott.

FORT WILLIAM;
PAY OFFICE,
*The* 31*st January* 1865.

C. F. M. MUNDY, *Lieut. Colonel,*
*Presidency Pay Master.*

*No.* 146 *of* 1865.—The services of the under-mentioned Officers are placed at the disposal of the Foreign Department:—

Major (Brevet Colonel) R. G. Taylor, C. B., of the Bengal Staff Corps.

Lieutenant (Brevet Captain) F. H. Hanmer, of the late 34th Regiment Native Infantry.

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*No.* 147 *of* 1865.—Major General Sir Neville Chamberlain, now on sick leave in Europe, having tendered his resignation of the command of the Punjab Irregular Force, the Right Hon'ble the Viceroy and Governor General in Council considers it his duty to place on record that the Government of India has the highest appreciation of the services of this distinguished Officer.

Sir Neville Chamberlain having served with honour during the two campaigns in Affghanistan, in the Gwalior Campaign of 1843, and in the second Sikh war, was, in the year 1855, appointed to the command of the Punjab Irregular Force, since which period he has most successfully conducted the arrangements for the protection of the Border occupied by that Force, while he has ably commanded several important expeditions into the adjacent mountains, concluding with that to Umbeyla in 1863, when he was severely wounded, and compelled to return to Europe.

Nor must it be forgotten that during the mutiny, when a large portion of the Punjab Irregular Force proceeded to Hindoostan, Sir Neville Chamberlain was, in the first instance, placed in command of the movable column formed for the security of the Punjab, and, subsequently, was called to the important post of the Adjutant General of the Army at Delhi, in which capacity he was highly distinguished, and received a most severe wound.

Not only was Sir Neville Chamberlain often distinguished on field service during his command of the Punjab Irregular Force, but he strenuously and successfully exerted himself for the discipline, efficiency, and welfare of the Troops under his command; he cordially co-operated with the Civil Government in its efforts for the benefit of the people, and he maintained a friendly intercourse with the principal Natives in the neighbourhood of his command.

In all these particulars he set an admirable example to all under his control, an example which the Government would desire to see followed by all British Officers in India.

The Viceroy and Governor General in Council deeply regrets the retirement of such an Officer from his command, but trusts he may again have the opportunity of serving his Sovereign in other capacities, when his health, shattered by numerous wounds and arduous service, has recovered under the influence of rest in his native country.

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*No.* 148 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointments:—

*Punjab Irregular Force.*

Brigadier General A. F. Wilde, C. B., Commandant, Corps of Guides, and Officiating Commandant of the Punjab Irregular Force, to be Commandant of the Force, in succession to Major General Sir N. B. Chamberlain, K. C. B., who has resigned the appointment.

*Corps of Guides.*

Colonel S. J. Browne, C. B. and V. C., Commandant, 2nd Punjab Cavalry, and Officiating Commandant, Corps of Guides, to be Commandant, *vice* Brigadier General Wilde, C. B.

*2nd Cavalry.*

Captain T. G. Kennedy, 2nd in Command, Corps of Guides, and Officiating Commandant, 2nd Cavalry, to be Commandant, *vice* Colonel Browne, C. B.

*Corps of Guides.*

Captain F. H. Jenkins, 2nd in Command, 1st Sikh Infantry, and Officiating 2nd in Command, Corps of Guides, to be 2nd in Command, and Wing Officer, *vice* Captain Kennedy.

*1st Sikh Infantry.*

Lieutenant H. C. P. Rice, Wing Officer, and Officiating 2nd in Command, to be 2nd in Command and Wing Officer, *vice* Captain Jenkins.

Lieutenant A. G. Ross, Adjutant, and Officiating Wing Officer, to be Wing Officer, *vice* Lieutenant Rice.

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*The 9th February* 1865.

*No.* 149 *of* 1865.—The leave of absence on medical certificate to proceed to Australia, granted to Captain (Brevet Major) W. Metcalf, of the late 35th Light Infantry, in Government General Order No. 168 of the 1st March 1864, is extended from the 10th April to the 31st December 1865, on the same account.

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*No.* 150 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Lieutenant Frederick Vincent Eyre, of the Royal Artillery, Commissary of Ordnance, 3rd Class. | For 20 months, under the new Regulations. |

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*The 10th February* 1865.

*No.* 151 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

Colonel W. W. Turner, C. B., of Her Majesty's 97th Foot, to the Brigade Staff of the Army, with the rank of Brigadier General, in succession to Major General W. O'G. Haly, C. B., whose appointment to the Divisional Staff was announced in Government General Order No. 17 of the 6th ultimo.

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*No.* 152 *of* 1865.—Sergeant Edward Brown is promoted to the rank of Sub-Conductor in the Army Commissariat Department, with effect from the 21st ultimo, *vice* Sub-Conductor Asher, pensioned.

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*No.* 153 *of* 1865.—It is notified for general information that a successful examination in the *First* or lower standard, laid down in Government General Order No. 734 of the 9th September 1864, will be held to be a sufficient qualification in the Native languages for the appointment of Aide-de-Camp.

*No.* 154 *of* 1865.—The under-mentioned Officers have reported their return from England. :—

| | *Date of arrival at Fort William.* |
|---|---|
| Major (Brevet Colonel) R. G. Taylor, C. B., of the Bengal Staff Corps.<br>Assistant Surgeon A. R. Waghorn, of the Medical Department. | 28th January 1865. |

*No.* 155 *of* 1865.—The under-mentioned Officer having completed five years' service as Captain and Brevet Lieutenant Colonel, and as Major and Brevet Lieutenant Colonel, to be Colonel in the Army, from the date specified opposite to his name, under the operation of Clause 8 of the Royal Warrant, dated 31st January 1859, published in Government General Order No. 740, dated 20th May 1859, and of Government General Orders Nos. 11 of 1863 and 118 of 1864, subject to Her Majesty's approv l:—.

BREVET.

*To be Colonel in the Army.*

| | |
|---|---|
| Major and Brevet Lieutenant Colonel Henry Daly, C. B., of the Bombay Staff Corps. | 20th July 1864. |

*No.* 156 *of* 1865.—The Right Hon'ble the Governor General in Council is pleased to confer temporarily the rank and position of a Brigadier General of the 2nd Class upon Colonel J. M. B. F. Tytler, C. B., of the Bengal Staff Corps, while employed with the Dooar Field Force.

H. W. NORMAN, *Colonel,*

*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 32.

*Fort William, the 6th February* 1865.

NOTIFICATIONS.

Sub-Conductor C. Montague, Assistant Supervisor, Public Works Department, held charge of the Sumbulpore Division of Public Works from the 25th July 1863 to the 10th November 1864.

No. 33.

The under-mentioned temporary Assistant Overseers serving in the Central Provinces are permanently appointed to the Public Works Department as Overseers of the 2nd grade, with effect from the 23rd June 1864 :—

Corporal R. Cooper.
" W. Ramsden.
" C. Wells.

No. 34.

Mr. C. Nuttall, Officiating Controller, Public Works Accounts, Mysore, assumed charge of his duties on the 3rd January 1865. This cancels Notification No. 20 of the 26th ultimo.

No. 35.

Lieutenant W. A. J. Wallace, R. E., is appointed to the Public Works Department as an Assistant Engineer, 2nd Class, with effect from the 14th April 1864, and temporarily posted to Bengal.

No. 36.

*The 8th February* 1865.

Mr. R. Watcham, having passed the prescribed examination, is appointed to the Department of Public Works as an Accountant, 4th grade, and posted to Mysore, with effect from the 15th November last.

No. 37.

*Erratum.*—In Notifications No. 323 of the 21st November last, transferring Lieutenant W. P. Tomkins to British Burmah, and No. 22 of 1865, for "Assistant Engineer, 1st Class," read "Assistant Engineer, 2nd Class."

No. 38.

Sub-Conductor H. L. B. DeBacker having been admitted to pension on the 24th October 1863, he is struck off the strength of the Public Works Establishment, with effect from that date.

No. 39.

Mr. Edward James is appointed to the Public Works Department as a Probationary Assistant Engineer, and posted to the Punjab.

No. 40.

Mr. W. R. Chill, Accountant, 4th grade, joined the Office of Public Works Accounts, Oudh, on the 12th January 1865.

No. 41.

The Chief Engineer of Irrigation Works in the Punjab will henceforth be an ex-officio Under Secretary to that Government for the Irrigation Branch of the Public Works Department.

No. 42.

*The 10th February* 1865.

Mr. J. Adam, Executive Engineer, 3rd Class, is transferred from the Punjab to British Burmah.

No. 43.

Mr. R. G. Elwes, Assistant Engineer, 1st Class, Punjab, passed the examination in Hindoostanee on the 9th January 1865.

E. C. S. WILLIAMS, *Captain,* R. E.

*Under Secy. to the Govt. of India.*

## Quarterly Report for the Quarter ending 31st December 1864.

*Report on the Examination of the Junior Unpassed Civil Servants in Persian, Urdu, Hindi, and Bengali, held in October* 1864.

### PERSIAN.

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | Remarks. |
|---|---|---|---|---|---|
| 1 | Ogilvie ... | N. W. P. | 22nd Nov. 1863 | 26th Nov. 1863 | Passed on the 1st instant. Qualified for the public service, having passed in Hindi on 2nd May 1864. |
| 2 | Smyth ... | Ditto ... | 2nd Dec. 1863 | 7th Dec. 1863 | Passed in Hindi on 2nd May 1864. |
| 3 | Champneys ... | Ditto ... | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Hindi on 1st June 1864. |
| 4 | Crawford ... | Ditto ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Hindi on 1st July 1864. |
| 5 | O'Brien ... | Ditto ... | 11th Jan. 1864 | 18th Jan. 1864 | Ditto ditto. |
| 6 | Boys ... | Ditto ... | 30th Oct. 1863 | 9th Nov. 1863 | Studying at Hazaribaugh. Passed in Hindi on 8th February 1864. |
| 7 | Lister ... | Ditto ... | 11th Dec. 1862 | 17th Dec. 1862 | Leave on medical certificate to Europe Passed in Hindi on 1st April 1863. |

### URDU.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Wilson ... | B. ... | 24th Dec. 1863 | 2nd Jan. 1864 | Studying at Dacca. Passed in Bengali on 1st July 1864. |

### HINDI.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Williams ... | N. W. P. | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Persian on 1st July 1864. Qualified for the public service, having passed in Hindi on 8th February 1864. Studying for Honors in the Hindi language. |
| 2 | Wright ... | Ditto ... | 15th Jan. 1864 | 8th Feb. 1864 | Passed in Persian on 1st August 1864. Qualified for the public service, having passed in Hindi on 1st April 1864. Studying for Honors in the Hindi language. |
| 3 | Jardine ... | Ditto ... | 14th Nov. 1863 | 17th Nov. 1863 | Passed in Hindi on 3rd June 1864 at Darjeeling. Qualified for the public service, having passed in Persian on 1st March 1864. Studying for Degree of Honor in the Hindi language. |

### BENGALI.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Magrath ... | B. ... | 14th Nov 1863 | 17th Nov. 1893 | Passed in Urdu on 2nd May 1864. |
| 2 | Kirkwood ... | B. ... | 2nd Dec. 1863 | 7th Dec. 1863 | Passed in Urdu on 1st August 1864. |
| 3 | Mosley ... | B. ... | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Urdu on 1st June 1864. |
| 4 | Quinn ... | B. ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed on the 1st instant. Qualified for the public service, having passed in Urdu on 2nd May 1864. |
| 5 | Dalton ... | B. ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Urdu on 1st September 1864. |
| 6 | MacAuliffe ... | B. ... | 9th Feb. 1864 | 22nd Feb. 1864 | Passed in Urdu on 1st July 1864. |
| 7 | Bovell ... | B. ... | 12th Mar. 1864 | 21st Mar. 1864 | Ditto ditto. |
| 8 | Hurley ... | B. ... | 14th Nov. 1863 | 17th Nov. 1863 | Passed for a certificate of High Proficiency in Bengali on the 1st instant. Qualified for the public service, having passed in Urdu in March 1864, and Bengali on 1st June 1864. |

*Report on the Examination of the Junior Unpassed Civil Servants,—continued.*

## BENGALI,—*continued.*

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | REMARKS. |
|---|---|---|---|---|---|
| 9 | McWilliam ... | B. ... | 22nd Nov. 1863 | 26th Nov. 1863 | Passed in Bengali on 1st July 1864. Qualified for the public service, having passed in Urdu on 2nd January 1864. Studying for Honors in the Bengali language. |
| 10 | Thompson | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st June 1864. Studying for Honors in the Bengali language. |
| 11 | Campbell ... | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Absent on medical certificate. Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st July 1864. Studying for Honors in the Bengali language. |
| 12 | Kinsey ... | B. ... | 10th Oct. 1863 | 15th Oct. 1864 | Leave on medical certificate to Kussowlie. Passed in Urdu on 1st March 1864. |

*Report on the Examination of the Junior Unpassed Civil Servants in Persian, Urdu, Hindi, and Bengali, held in November* 1864.

## PERSIAN.

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | REMARKS. |
|---|---|---|---|---|---|
| 1 | Boys ... | N. W. P. | 30th Oct. 1863 | 9th Nov. 1863 | Passed on the 1st instant. Qualified for the public service, having passed in Hindi on 8th February 1864. |
| 2 | Smyth .. | Ditto ... | 2nd Dec. 1863 | 7th Dec. 1863 | Passed on the 1st instant. Qualified for the public service, having passed in Hindi on 2nd May 1864. |
| 3 | Champneys ... | Ditto ... | 12th Dec. 1863 | 14th Dec. 1863 | Left the hall sick. Passed in Hindi on 1st June 1864. |
| 4 | Crawford ... | Ditto ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Hindi on 1st July 1864. |
| 5 | O'Brien ... | Ditto .. | 11th Jan. 1864 | 18th Jan. 1864 | Ditto ditto. |
| 6 | Lister ... | Ditto ... | 11th Dec. 1862 | 17th Dec. 1862 | Leave on medical certificate to Europe. Passed in Hindi on 1st April 1863. |

## URDU.

| | | | | | |
|---|---|---|---|---|---|
| | | | At Calcutta. | | |
| 1 | Smeaton ... | B. ... | 19th Oct. 1864 | 1st Nov. 1864 | Not passed in any language. |
| 2 | Wilson ... | B. ... | 24th Dec. 1863 | 2nd Jan. 1864 | Studying at Dacca. Passed in Bengali on 1st July 1864. |

## HINDI.

| | | | | | |
|---|---|---|---|---|---|
| | | | At Calcutta. | | |
| 1 | Ellison ... | N. W. P. | 19th Oct. 1864 | 1st Nov. 1864 | Not passed in any language. |
| 2 | Williams ... | Ditto ... | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Persian on 1st July 1864. Qualified for the public service, having passed in Hindi on 8th February 1864. Studying for Honors in the Hindi language. |

*Report on the Examination of the Junior Unpassed Civil Servants,—continued.*

## HINDI,—*continued.*

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | Remarks. |
|---|---|---|---|---|---|
| 3 | Wright ... | N. W. P.... | 15th Jan. 1864 | 8th Feb. 1864 | Passed for a certificate of High Proficiency in Hindi on 1st instant. Qualified for the public service, having passed in Hindi on 1st April, and Persian on 1st August 1864. |
| 4 | Jardine ... | Ditto ... | 14th Nov. 1863 | 17th Nov. 1863 | Passed in Hindi on 3rd June 1864 at Darjeeling. Qualified for the public service, having passed in Persian on 1st March 1864. Studying for Degree of Honor in the Hindi language. |

## BENGALI.

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | Remarks. |
|---|---|---|---|---|---|
| 1 | Magrath ... | B. | 14th Nov. 1863 | 17th Nov. 1863 | Passed in Urdu on 2nd May 1864. |
| 2 | Kirkwood ... | B. ... | 2nd Dec. 1863 | 7th Dec. 1863 | Passed in Urdu on 1st August 1864. |
| 3 | Mosley ... | B ... | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Urdu on 1st June 1864. |
| 4 | Dalton ... | B. ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Urdu on 1st September 1864. |
| 5 | MacAuliffe ... | B. ... | 9th Feb. 1864 | 22nd Feb. 1864 | Passed on the 1st instant. Qualified for the public service, having passed in Urdu on 1st July 1864. |
| 6 | Bovell ... | B. ... | 12th March 1864 | 21st March 1864 | Passed in Urdu on 1st July 1864. |
| 7 | Hallett .. | B. ... | At Calcutta. 19th Oct. 1864 | 24th Oct. 1864 | Not passed in any language. |
| 8 | McWilliam ... | B. ... | 22nd Nov. 1863 | 26th Nov. 1863 | Passed in Bengali on 1st July 1864. Qualified for the public service, having passed in Urdu on 2nd January 1864. Studying for Honors in the Bengali language. |
| 9 | Thompson ... | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st June 1864. Studying for Honors in the Bengali language. |
| 10 | Campbell ... | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st July 1864. Studying for Honors in the Bengali language. |
| 11 | Kinsey ... | B. .. | 10th Oct. 1863 | 15th Oct. 1863 | Leave on medical certificate to Kussowlie. Passed in Urdu on 1st March 1864. |

*Report on the Examination of the Junior Unpassed Civil Servants in Persian, Urdu, Hindi, and Bengali, held in December* 1864.

## PERSIAN.

| Nos. | Names. | Division of Presidency. | Date of arrival. | Date of Initiatory Examination. | Remarks. |
|---|---|---|---|---|---|
| 1 | Champneys ... | N. W. P. | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Hindi on 1st June 1864. |
| 2 | Crawford ... | Ditto ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Hindi on 1st July 1864. |
| 3 | O'Brien ... | Ditto ... | 11th Jan. 1864 | 18th Jan. 1864 | Passed on the 1st instant. Qualified for the public service, having passed in Hindi on 1st July 1864. |
| 4 | Lister ... | Ditto ... | 11th Dec. 1862 | 17th Dec. 1862 | Leave on Medical Certificate to Europe Passed in Hindi on 1st April 1863. |

*Report on the Examination of the Junior Unpassed Civil Servants,—continued.*

## URDU.

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | REMARKS. |
|---|---|---|---|---|---|
| 1 | Smeaton ... | N. W. P. | At Calcutta. 19th Oct. 1864 | 1st Nov. 1864 | Not passed in any language. |
| 2 | Huddlestone ... | Ditto ... | At Calcutta. 16th Nov. 1864 | 17th Nov. 1864 | Ditto ditto. |
| 3 | Neill ... | Ditto ... | At Calcutta. 25th Nov. 1864 | 28th Nov. 1864 | Ditto ditto. |
| 4 | Gardiner ... | Ditto ... | At Calcutta. 25th Nov. 1864 | 28th Nov. 1864 | Ditto ditto. |
| 5 | Thorburn ... | B. ... | At Calcutta. 25th Nov. 1864 | 28th Nov. 1864 | Ditto ditto. |
| 6 | Hodgkinson ... | B. ... | At Calcutta. 25th Nov. 1864 | 28th Nov. 1864 | Ditto ditto. |
| 7 | Venning ... | N. W. P. | At Calcutta. 26th Nov. 1864 | 1st Dec. 1864 | Ditto ditto. |
| 8 | Wilson ... | B. ... | 24th Dec. 1863 | 2nd Jan. 1864 | Studying at Patna. Passed in Bengali on 1st July 1864. |

## HINDI.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Ellison ... | N. W. P. | At Calcutta. 19th Oct. 1864 | 1st Nov. 1864 | Not passed in any language. |
| 2 | Beachcroft ... | Ditto ... | At Calcutta. 14th Nov. 1864 | 17th Nov. 1864 | Ditto ditto. |
| 3 | Stogdon ... | Ditto ... | At Calcutta. 12th Nov. 1864 | 17th Nov. 1864 | Ditto ditto. |
| 4 | Williams ... | Ditto ... | 12th Dec. 1863 | 14th Dec. 1863 | Absent on medical certificate. Passed in Persian on 1st July 1864. Qualified for the public service, having passed in Hindi on 8th Februray 1864. Studying for Honors in the Hindi language. |
| 5 | Jardine ... | Ditto ... | 14th Nov. 1863 | 17th Nov. 1863 | The Board recommend that a Certificate of High Proficiency in Hindi be awarded to him. Qualified for the public service, having passed in Persian on 1st March in Calcutta, and Hindi on 3rd June 1864 at Darjeeling. |

## BENGALI.

| | | | | | |
|---|---|---|---|---|---|
| 1 | Magrath .. | B. .. | 14th Nov. 1863 | 17th Nov. 1863 | Passed in Urdu on 2nd May 1864. |
| 2 | Kirkwood ... | B. ... | 2nd Dec. 1863 | 7th Dec. 1863 | Passed on the 1st instant. Qualified for the public service, having passed in Urdu on 1st August 1864. |
| 3 | Mos ... | B. ... | 12th Dec. 1863 | 14th Dec. 1863 | Passed in Urdu on 1st June 1864. |
| 4 | Dalton ... | B. ... | 8th Jan. 1864 | 18th Jan. 1864 | Passed in Urdu on 1st September 1864. |
| 5 | Bovell ... | B. ... | 12th March 1864 | 21st Mar. 1864 | Passed in Urdu on 1st July 1864. |
| 6 | Hallett ... | B. ... | At Calcutta. 19th Oct. 1864 | 24th Oct. 1864 | Passed on the 1st instant. Has to pass in a second language. |
| | Gordon ... | B. ... | At Calcutta. 14th Nov. 1864 | 17th Nov. 1864 | Not passed in any language. |
| 8 | Manson ... | B. ... | At Calcutta. 14th Nov. 1864 | 17th Nov. 1864 | Ditto ditto. |

*Report on the Examination of the Junior Unpassed Civil Servants,—continued.*

## BENGALI,—*continued.*

| Nos. | Names. | Division of Presidency. | Date of Arrival. | Date of Initiatory Examination. | REMARKS. |
|---|---|---|---|---|---|
| 9 | McWilliam ... | B. ... | 22nd Nov. 1863 | 26th Nov. 1863 | Passed for a Certificate of High Proficiency in Bengali on 1st instant. Qualified for the public service, having passed in Urdu on 2nd January, and Bengali on 1st July 1864. |
| 10 | Thompson ... | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st June 1864. Studying for Honors in the Bengali language. |
| 11 | Campbell ... | B. ... | 17th Jan. 1864 | 8th Feb. 1864 | Passed in Bengali on 1st September 1864. Qualified for the public service, having passed in Urdu on 1st July 1864. Studying for Honors in the Bengali language. |
| 12 | Kinsey ... | B. ... | 10th Oct. 1863 | 15th Oct. 1863 | Studying at Dinapore. Passed in Urdu on 1st March 1864. |

By order of the Board of Examiners,

FORT WILLIAM,
*The 26th January* 1865.

E. STGEORGE,
*Offg. Secy. to the Board of Examiners.*

No. 1071.

By order of His Excellency the Governor General in Council,

HOME DEPARTMENT,
*The 2nd February* 1865.

E. C. BAYLEY,
*Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### TO TIMBER MERCHANTS AND CONTRACTORS, &c.

*Oudh Forest Department.*

A sale of Sâl logs (about 100,000 cubic feet) cut in 1862-63, will take place at noon on the 2nd of March 1865, at Ghuttea Ghaut, on the Sarda, and afterwards at Dhunara Ghaut, two miles further down stream, near the towns of Madho Sunda, Sherepore, and Poorunpore, in the Shajehanpore district; upset price 8 annas per cubic foot. The timber will be sold in both large and small quantities. The timber can be floated to Byram Ghaut for 3 annas a cubic foot, or, after land carriage of some twenty miles, can be floated down the Kumhout Nuddee to the Ganges, then to Cawnpore, Allahabad, Benares, &c. Estimated cost from Ghauts to Cawnpore, 4½ annas per cubic foot. Tenders for quantities over 1,000 cubic feet, at 8 annas per cubic foot, for cash payment, will be accepted up to date of sale. Terms of sale can be had on application to the undersigned.

E. S. WOOD, *Captain,*
*Offg. Conservr., Oudh Forests.*

CAMP, KYREEGURH FOREST,
*viâ* POORUNPORE,
ZILLAH SHAJEHANPORE.

## POSTAL NOTICE.

An intimation has been received from Her Majesty's Post Master General of England of the establishment of a monthly communication between Port Louis (Mauritius) and Table Bay (Cape of Good Hope) calling at Natal.

The Branch Packet will leave Port Louis immediately after the arrival of the Packet from Suez and Aden, that is, about the 25th of the month, and will return to Port Louis in time for the Packet appointed to leave for Aden and Suez on the 6th of each month.

Letters for Natal, the Cape of Good Hope, St. Helena, and Ascension, if marked viâ Aden and Mauritius, will be sent by the route above mentioned.

The postage on pre-paid letters sent by this route will be the same as on letters sent viâ Southampton to England.

Pre-payment is optional.

H. B. RIDDELL,
*Dir. Genl. of the Post Office of India.*

CALCUTTA,
*4th February* 1865.

## LOST.

Government Currency Note No. 46167, for Rs. 50. Payment stopped.

*Statement of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 7th February* 1865.

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent. of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 4½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount brought forward from Statement dated 25th January 1865 ... ... | 53,000 | 300 | 25,70,100 | 22,80,900 | 96,05,700 | 65,80,800 | 32,17,400 | 4,74,49,900 | 2,37,04,500 | 17,600 | 16,000 | 9,54,96,200 |
| ADD— | | | | | | | | | | | | |
| Amount enfaced at Madras, as per Registers received up to date... | ... | ... | ... | .. | 3,200 | ... | ... | 59,500 | 45,500 | ... | ... | 1,08,200 |
| Amount enfaced at Bombay, as per ditto ditto ditto ... | ... | ... | ... | ... | 4,800 | ... | 20,500 | 20,500 | 2,50,000 | ... | ... | 2,95,800 |
| Amount enfaced at Calcutta up to date. ... ... | ... | ... | ... | ... | ... | 500 | 2,200 | 6,50,500 | 1,85,800 | ... | ... | 8,39,000 |
| Total ... | 53,000 | 300 | 25,70,100 | 22,80,900 | 96,13,700 | 65,81,300 | 32,40,100 | 4,81,80,400 | 2,41,85,800 | 17,600 | 16,000 | 9,67,39,200 |
| DEDUCT— | | | | | | | | | | | | |
| Amount removed from the London Books, as per Registers received up to date ... | ... | ... | 7,500 | 2,200 | 57,600 | 18,000 | 23,000 | 1,02,500 | 77,000 | ... | ... | 2,87,800 |
| Total ... | 53,000 | 300 | 25,62,600 | 22,78,700 | 95,56,100 | 65,63,300 | 32,17,100 | 4,80,77,900 | 2,41,08,800 | 17,600 | 16,000 | 9,64,51,400 |

FORT WILLIAM;
LOAN OFFICE,
*The 9th February* 1865.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

## Orders by the Vice-Chancellor and Syndicate of the Calcutta University.

The under-mentioned students have passed the examination for the Degree of Bachelor of Arts :—

FIRST DIVISION.

*In order of Merit.*

| | | |
|---|---|---|
| 1. | Chunder Nauth Bose ... | Presidency College. |
| 2. | H. Blochmann ... | Professor, Doveton College. |
| | Rash Behary Ghose ... | Presidency College. |
| 4. | Kally Churn Banerjee... | Calcutta Free Church Institution. |
| 5. | Kopally Prosonno Mookerjee ... | Presidency College. |
| 6. | Joy Gobindo Shome ... | Calcutta Free Church Institution. |
| 7. | Gobindo Chunder Ghose, | Presidency College. |
| 8. | Nebarun Chunder Mookerjee ... | ditto. |
| 9. | Baney Madub Dey ... | ditto. |
| 10. | Omakanto Chatterjee ... | ditto. |
| 11. | Shoshee Bhoosun Banerjee ... | ditto. |
| 12. | Dwarka Nauth Bhuttacharjee ... | ditto. |
| 13. | Okhoy Coomar Roy ... | ditto. |
| 14. | Bhoobun Mohun Porel... | Calcutta Free Church Institution. |
| 15. | Chunder Mohun Ghose | Medical College. |
| 16. | Shumbhoo Chunder Naug ... | Dacca College. |

SECOND DIVISION.

*In Alphabetical Order.*

| | |
|---|---|
| Atma Ram ... | Agra College. |
| Charoo Chunder Dutt ... | Presidency College. |
| Chunder Coomar Doss ... | ditto. |
| D'Cruz, L. W. ... | Doveton College. |
| Debender Chunder Ghose ... | Presidency College. |
| Deno Nauth Sen ... | Dacca College. |
| Gopaul Chunder Bose ... | Presidency College. |
| Grish Chunder Chatterjee ... | Calcutta Free Church Institution. |
| Hem Chunder Chatterjee ... | Teacher, Chinsurah F. C. Institution. |
| Janokee Nauth Mookerjee... | Presidency College. |
| Juggeshur Chunder ... | ditto. |
| Jugguth Doorlub Moojoomdar ... | Teacher. |
| Kali Padu Guptu ... | Medical College. |
| Kanny Laul Seal ... | Presidency College. |
| Kishory Mohun Chatterjee... | Doveton College. |
| Madhava Chundra Deva ... | Benares College. |
| Mohinee Mohun Burdone ... | Dacca College. |
| Mohommed Diem ... | Presidency College. |
| Nilmoney Doss ... | ditto. |
| Opendro Chundro Mullick... | ditto. |
| Prosunno Badano Mittra ... | Benares College. |
| Prem Chand Mullick ... | Presidency College. |
| Protap Chunder Ghose ... | ditto. |
| Roodro Canto Biswas ... | ditto. |
| Shama Churn Chuckerbutty | ditto. |
| Shoshee Bhoosun Bose ... | Dacca College |
| Shurbanundo Doss ... | Presidency College. |
| Tariny Churn Ghose ... | ditto. |
| Twidale, G. A. ... | Doveton College. |

The under-mentioned students have passed the examination for the Degree of Bachelor in Law :—

FIRST DIVISION.

*In order of Merit.*

| | | | |
|---|---|---|---|
| 1. | Gooroo Prosaud Sen ... | Presy. College (Law Dept.) | |
| | Tara Bilash Mitter ... | ditto | ditto. |
| 3. | Troylokho Nauth Mitter | ditto | ditto. |
| 4. | Omer Nauth Bose ... | ditto | ditto. |
| 5. | Raj Mohun Mookerjee... | ditto | ditto. |
| 6. | Gobindo Chunder Seal... | ditto | ditto. |
| 7. | Ram Laul Mookerjee ... | ditto | ditto. |
| 8. | Grish Chunder Chowdhry | ditto | ditto. |
| 9. | Peary Laul Goohoo ... | ditto | ditto. |
| 10. | Sham Laul Halder ... | ditto | ditto. |

SECOND DIVISION.

*In order of Merit.*

| | | |
|---|---|---|
| Mutty Laul Sircar ... | Presy. College (Law Dept.) | |
| Krishno Chunder Chatterjee, | ditto | ditto. |
| Hurri Narain Roy ... | ditto | ditto. |
| Loll Gopaul Dutt ... | ditto | ditto. |
| Baney Madhub Mitter ... | ditto | ditto. |
| Herumbo Lall Goshamy ... | ditto | ditto. |
| Grish Chunder Chuckerbutty | ditto | ditto. |

The under-mentioned student has passed the examination for the Degree of Batchelor in Medicine :—

Doyal Chunder Shome ... Medical College.

The under-mentioned students have passed the examination for a License in Law :—

*In Alphabetical order.*

| | | |
|---|---|---|
| Ishen Chunder Singh ... | Presy. College (Law Dept.) | |
| Kooloda Prosaud Mookerjee, | ditto | ditto. |
| Poorno Chunder Mitter ... | ditto | ditto. |
| Protap Chunder Dey ... | ditto | ditto. |
| Shoshee Bhoosun Sen ... | ditto | ditto. |

J. SUTCLIFFE, M. A.,

*Offg. Registrar.*

*The 30th January* 1865.

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## STOLEN.

The Government Promissory Note No. 2477 of 2425 of 1842-43, for Rs. 500, of the 4 per cent. Loan originally standing in the name of Eshree Pershad, Commissariat Gomashtah, and finally endorsed to the undersigned.

Payment of the above note and interest thereupon has been stopped at the Loan Office, and application is about to be made to Government for the issue of a duplicate number in favour of the proprietor.

HURDUI,
*The 16th January* 1865. } RAM NARAIN.

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## NOTICE.

Sealed Tenders will be received by the Agent for Gunpowder at Ishapore up to 10 A. M. of the 1st May 1865, and opened at noon the following day, in the presence of attending parties, for the supply of (40,000) forty thousand maunds of *Peeled* Stalk of the Urhur Dallwood; the wood to be of the last crop, sound, and free from weevils. The entire supply to be rendered at the Gunpowder Works before the 1st March 1866.

Security two thousand five hundred Rupees One hundred Rupees (returnable) to be sent with each Tender.

Parties are requested not to enclose cash for security in their Tenders, but to send it by the hands of the persons who are to be present at the opening of the Tenders.

No Tender will be opened unless such person appear.

G. E. VOYLE, *Lieut.Col.*, R. A.

*Agent for Gunpowder.*

ISHAPORE POWDER WORKS,
*6th February* 1865. }

## SHERIFF'S OFFICE.

Notice is hereby given that the Criminal Sessions of the High Court of Judicature at Fort William in Bengal in its Ordinary Original Jurisdiction for the year 1865, will be held on the undermentioned dates, viz. :—

| | | | | |
|---|---|---|---|---|
| 1st | Criminal | Sessions, | Thursday, | 19th January. |
| 2nd | do. | do. | Friday, | 10th March. |
| 3rd | do. | do. | Tuesday, | 25th April. |
| 4th | do. | do. | Monday, | 5th June. |
| 5th | do. | do. | Tuesday, | 18th July. |
| 6th | do. | do. | Monday, | 14th August. |
| 7th | do. | do. | Thursday, | 14th September. |
| 8th | do. | do. | Friday, | 24th November. |

H. DUNDAS,
*Sheriff.*

*12th January* 1865.

## FOR SALE,

A COLLECTION of TREATIES, ENGAGEMENTS, and SUNNUDS, relating to India and neighbouring countries, compiled by C. U. Aitchison, B. C. S., Under Secretary to the Government of India in the Foreign Department. Price, Five Rupees per volume

VOLUME I.—Containing the Treaties, &c., relating to Bengal, Burmah, and the Eastern Archipelago. Super royal, 8vo. pp. 372, with three Maps.

VOLUME II.—Containing the Treaties, &c., relating to the North-Western Provinces, Oudh, Nepal, the Punjab, and the States on the Punjab Frontier. Super royal, 8vo. pp. 456, with two Maps.

VOLUME III.—Containing the Treaties, &c., relating to the Peishwa, Nagpoor, and Bundlecund. Super royal, 8vo. pp. 588.

VOLUME IV.—Containing Treaties, &c., relating to the States in Rajpootana, Central India, and Malwa.

VOLUME V.—Containing Treaties, &c., relating to Hyderabad, Mysore, and Coorg, the Madras Presidency, and Ceylon.

VOLUME VI.—Containing Treaties, &c., relating to the States within the Bombay Presidency.

## COMMISSARIAT NOTIFICATION.

I. Under instructions from Government, the Tannery at Hoonsoor, near Mysore, with all fixtures, is to be disposed of, and notice is hereby given that tenders for the same will be received by the Deputy Commissary General at his Office at Madras, up to 12 o'clock noon of Tuesday, the 21st March 1865.

II. The Tannery stands in an enclosed yard about 626 feet long by 473 feet broad, and is situated on the "Lutchmen Treert" River, has an ample supply of water, and comprises—

"Bark and Raw Hide store-rooms,
"Lime and Bark Pits,
"Upper-storied Currier's shop,
"Buff Mill,
"Work shop,
"Store Godowns for finished goods,"

with all the other requisite buildings for a business capable of turning out 2,000 Hides a month in the best style.

III. The Tannery will be made over to the successful competitor on the 1st of July 1865, on his complying with conditions hereinafter mentioned.

IV. There is a large quantity of stock, raw and in process of tanning, on hand, which the successful competitor for the Tannery will have the option of taking at a valuation, composed of Australian, Cape, and Country Bullock, Buffaloe, Sheep, and Goat Hides.

V. One-third of the price to be paid down in cash on the acceptance of the successful tenders being declared, and the balance on or before the 1st July 1865.

VI. Should the successful competitor for the Tannery take the stock at a valuation, transfer of the whole property can be made at once on payment of balance of price.

VII. Failing the due fulfilment of this engagement, the purchaser will forfeit the aforesaid third of the purchase money.

VIII. Any further information required can be obtained on application at the Commissary General's Office, or to the Deputy Assistant Commissary General at Hoonsoor, who will show the Tannery.

IX. Intending purchasers must satisfy themselves of the nature and description of the Buildings and Articles. This Department will not be answerable for any errors of description.

By order,

E. E. MILLER, *Lieut. Colonel,*
*Deputy Commissary General.*

COMMY. GENERAL'S OFFICE,
*Madras, 21st January* 1865.

## No. 2.

## COMMISSARIAT NOTICE.

Sealed tenders are invited for supply of Beef and Mutton to Troops at Fort William and Dum-Dum, on the March and in Camp, at various distances from the Presidency, for fourteen months, from 1st March next.

Form of tender to be had at No. 6, Park Street, where tenders will be received up to 2 P. M. of the 6th, and opened at noon on the 7th February.

Separate tenders required for each Station.

Earnest deposit to be in Government Promissory Notes, or Bank of Bengal Receipt.

## SCHEDULE.

| Names of Articles. | Period for which contract is invited. | Aggregate quantity probably deliverable during the contract. | Where and to whom the articles are deliverable. | Instalments deliverable and specific time of delivery. | Amount of earnest money to be lodged with tender. | Security to be deposited on acceptance of tender by the Commissary General. | Quality of supply. |
|---|---|---|---|---|---|---|---|
| | | lbs. | | | Rupees. | Rupees. | |
| *Fort William.* | From 1st March 1865 to 30th April 1866. | | Ration grounds and Hospitals to Commanding and Medical Officers. | Half an hour before sunrise daily, according to daily Indents, &c. | | | Best grass fed. |
| Beef ... ... ... | | 4,28,500 | | | 3,000 | 10,000 | |
| Mutton ... ... ... | | 71,500 | | | | | |
| *Dum-Dum.* | | | | | 3,000 | 10,000 | |
| Beef ... ... ... | | 3,00,000 | | | | | |
| Mutton ... ... ... | | 50,000 | | | | | |

FORT WILLIAM,
EXE. COMMISSARIAT OFFICE;
*The 23rd January* 1865.

G. S. MACBEAN, *Major,*
*Assistant Commissary General.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 6.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, FEBRUARY 18, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., cap. 67.**

The Council met at Government House on Friday, the 10th February 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.
Major General the Hon'ble Sir R. Napier, K.C.B.
The Hon'ble H. B. Harington.
The Hon'ble H. Sumner Maine.
The Honb'ble W. Grey.
The Hon'ble H. L. Anderson.
The Hon'ble J. N. Bullen.
The Hon'ble Mahárájá Vijayaráma Gajapati, Rájá Bahádur of Vizianagram.
The Hon'ble Rája Sáhib Dyál Bahádur.
The Hon'ble G. Noble Taylor.
The Hon'ble W. Muir.
The Hon'ble R. N. Cust.
The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.
The Hon'ble D. Cowie.

CIVIL AND CRIMINAL COURTS (PUNJAB) BILL.

The Hon'ble Mr. Cust introduced the Bill to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies, and moved that it be referred to a Select Committee, with instructions to report in four weeks. He stated that a copy of the Bill had been forwarded to the Punjab Government, and that any suggestion received would be carefully considered in Committee.

The Bill was simply declaratory of the existing machinery. As on the occasion of asking leave to introduce the Bill he had stated the object of the Bill, he would not on this occasion trespass further on the time of the Council.

The Motion was put and agreed to.

INSURANCE COMPANIES' LIMITED LIABILITY BILL.

The Hon'ble MR. MAINE introduced the Bill to enable Insurance Companies to be formed on the principle of Limited Liability, and moved that it be referred to a Select Committee with instructions to report in four weeks. He said that he had placed the next motion on the paper, not for the purpose of pressing it, but in order to say that the state and probable progress of business before the Council and its Committees could now be more clearly ascertained than was possible three weeks since, and, on a review of the business, he had come to the conclusion that it was doubtful whether this Bill could pass during the present sittings. He had come to that conclusion with some reluctance, as he could not himself discern a vestige of a reason why these gentlemen who had applied for the Bill should not be placed in this particular in the same position as any seven British subjects at home, and also because he could not help seeing that they had already in India the limited liability of Insurance Companies in a most questionable shape, the limited liability of Companies trading on English register, six thousand miles from the Office of the Registrar of Joint Stock Companies, and therefore, according to his (Mr. Maine's) ideas, not presenting many of those securities which were essential to the proper application of the principle of limitation. Considering, however, that, in view of the discussions proceeding in Committee and impending in Coun-

cil, the Bill could scarcely pass during the period for which the additional Members could reasonably be detained in Calcutta, Mr. Maine thought it would on the whole be more convenient to wait for the measure consolidating the whole law of Joint Stock Companies, which, as he had announced, was contemplated by the Legislative Department. When that measure passed into law, Mr. Maine trusted it would enunciate the general principle with the breadth with which it was enunciated in the English Statute of 1862, that "where any seven persons associated themselves for a lawful purpose, they might form a Company with limited liability."

There was one other point in which he wished to say a few words. He was told that it was supposed that he had announced to the Council a proposition to legalize at once and on his own responsibility commanditarian partnership. He was sure that no Member who was present could for a moment have thought that he spoke in that sense. What he said was that the debates in Parliament had produced a strong impression on his mind that the English Legislature was about to legalize that form of partnership which was called commanditarian partnership; and that the Bill submitted to the House of Commons had been postponed, not because there was serious opposition to it, but because the subject, being somewhat unfamiliar even to the mercantile world at home, required more discussion and ventilation out-of-doors. Mr. Maine had suggested that the same process of external discussion should be followed here, and he had assigned some reasons why this mixture of limited and unlimited liability was in his judgment even more suited to India than to England. Of course the mere legislation on a matter of this kind was the least part of what was required to be done; indeed, the best thing to do would be virtually to transcribe the excellently drawn Bill which had been brought into the British Parliament. But the true question for consideration was the question of principle—whether it was desirable that sleeping partners with limited liability should be allowed to join acting and managing partners with unlimited liability on the condition that the former should register the amount of their advances, and carefully abstain from interfering with the conduct of the business. The general sense and experience of the commercial world ought to decide the point. As, therefore, the Committee, even if named, would probably merge in the Committee on the consolidating Bill, he requested His Excellency to consider the motion as withdrawn.

The Motion was withdrawn.

### Common Carriers' Bill.

The Hon'ble Mr. Maine also moved that the Report of the Select Committee on the Bill relating to the rights and liabilities of Common Carriers, be taken into consideration. He said that in this Bill, which he trusted would be a measure of some value to the mercantile and general community, and which certainly seemed to be required by the extension of the business of private carrying, the Select Committee had suggested only two alterations of any importance. The first was in Section 6. When the Bill was last before the Council, he had described the system of the Bill, which was that of the English law, as follows:—

If the goods for conveyance consisted of any of the articles enumerated in the Schedule, that is, were unusually valuable or unusually perishable, such as gold, jewels, paintings, engravings, or title deeds, the customer, when committing them to the carrier, must give a special description of their character and value, otherwise the carrier would be relieved from liability. On the other hand, the carrier was allowed to charge an additional rate as insurance against the augmented risk, in conformity with a scale of charges to be publicly exposed in his place of business. If, however, the goods were of an ordinary kind, neither unusually valuable nor unusually destructible, the carrier would not be allowed to acquit himself of his obligations merely by putting up a table or board.

Mr. Justice Levinge, however, had called the attention of the Select Committee to an evasion of the rule which was not uncommon in England, and had suggested that the carrier might perhaps cause the coolie who brought the article for carriage to sign or put his mark to some paper, and that would constitute a special contract. Mr. Justice Levinge had, therefore, suggested, and the Select Committee had accepted the suggestion, that, when a special contract limiting the liability of the carrier was signed, the agent signing should be always an agent expressly authorized to bind the customer.

The other amendment was in Section 9, and was not absolutely required, but was adopted for the sake of clearness. It provided that, when a customer was suing a common carrier, the customer should only be bound to prove a contract or delivery, and the non-delivery of the goods at their destination, and then it would be for the carrier to prove that the loss or damage took place under such circumstances as would relieve the carrier from responsibility.

The only other alterations were the insertion of a few words in the Preamble to exclude the Government from the operation of the Bill, and the addition of a Section saving the provisions of the ninth, tenth, and eleventh Sections of Act No. XVIII of 1854 *(relating to Railways in India)*.

He begged to move that the report of the Select Committee be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Rájá Sáhib Dyál Bahádur proposed the addition of the following words to the third Section: "and the carrier or his agent shall thereupon himself personally have such property examined; or if that be impossible, shall have it inspected and the seal affixed to the box or parcel in which such property is contained, and shall on delivery thereof show such seal to be intact."

The custom now prevailing in the country was that jewels and similar valuable property were either shown to the insurer when delivered over to him, and by him when he delivered them over in his turn, or that the seal was affixed to the box in which such valuables were contained, was pointed out to him, and was by him shown to the party receiving delivery from him to be intact. For instance, shawls and such valuable cloths were either packed in the presence of the insurer, or, if given over to him already packed, were sealed, in

which case, the Rájá said, the seal's remaining intact absolved the insurer from responsibility.

The Hon'ble Mr. Maine thought that the Hon'ble Member had overlooked the fact that the particular Section referred to was one protecting the carrier, and enabling him to compensate himself for increased risk by an enhanced rate of charge. A fraudulent declaration of value under the Section by the consignor would in no way bind the carrier.

The Hon'ble the Mahárájá of Vizianagram moved as an amendment that the words "Cloths and tissues embroidered with the precious metals or of which such metals formed part" and "Articles of ivory, ebony or sandalwood" should be added to the Schedule.

The amendment was agreed to.

The Hon'ble Mr. Maine then moved that the Bill as amended be passed.

The Motion was put and agreed to.

### Government Forests' Bill.

The Hon'ble Mr. Maine also presented the Report of the Select Committee on the Bill to give effect to Rules for the management and preservation of Government Forests.

### Civil Justice Bill.

The Hon'ble Mr. Maine also presented the Report of the Select Committee on the Bill for the improvement of the Administration of Civil Justice in respect of Suits of small value.

### Registration Act Amendment Bill.

The Hon'ble Mr. Taylor, in moving for leave to introduce a Bill to amend Act XVI of 1864 (to provide for the Registration of Assurances), said that only two amendments on the present law were proposed. The first had reference to Section 40 of the Act, which provided that an abstract of every original instrument affecting immoveable property registered in the Office of the Deputy Registrar, should be sent in duplicate to the District Registrar. This Section of the Act as it now stood was so far defective that, while it prescribed the course to be followed by the District Registrar in respect of one of the duplicate abstracts sent to him, it omitted to say what he was to do with the other. A Section of the Draft Bill supplied this omission. But the main object of the Bill was to provide for the appointment of a Deputy Registrar General to perform the duties of the Registrar General during his absence on duty from the place where the General Registry Office was established. This provision was required to enable the Registrar General to leave his head-quarters and occasionally visit the Offices in the Mofussil, without causing inconvenience to that section of the public who might prefer to register in the General Office rather than in the Office of the District Registrar.

The obvious benefit that would result from the personal visits of the Chief of the Department to his subordinates in the interior could not be better described than in the words of the Registrar General himself, who, after the experience he had already gained of the working of the Act, wrote, "I am convinced, from seeing the Offices near Calcutta, that an hour's talk with the registering Officer does more good in correcting errors that might otherwise become inveterate, and explaining some of the difficult points of the system, than can be done by any amount of correspondence."

This desirable object would be attained if the Draft Bill became law.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies——The Hon'ble Messrs. Harington, Maine, Muir, and Cust.

The Council then adjourned.

Whitley Stokes,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

Calcutta,
*The 10th February* 1861.

## PUBLIC WORKS DEPARTMENT.

### Platelaying in the Punjab Railway.

*Progress Report of Platelaying for the month ending December* 1864.

| | Miles. | Chains. | | Platelaying required. | Previously | | This Month | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Linked in. | Completed. | Linked in. | Completed. | Linked in. | Completed. |
| | | | District No. 1. | M. C. | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 30 72 | 30 73 0 | 30 73 0 | ..... | ..... | 30 73 0 | 30 73 0 |
| To | 31 | 65 | Umritsur Station ... ... | | | | | | | |
| | | | District No. 2. | | | | | | | |
| From | ... | 72 | Main Line at Lahore Station | 53 8 | *53 8 0 | 53 8 0 | ..... | ..... | 53 8 0 | 53 8 0 |
| To | 54 | ... | " towards Mooltan | | | | | | | |
| | | | District No. 3. | | | | | | | |
| From | 54 | .. | Main Line ... ... .. | 56 0 | *45 0 0 | 0 4 0 | 11 0 0 | ..... | 56 0 0 | 0 4 0 |
| To | 110 | ... | " towards Mooltan | | | | | | | |
| | | | District No. 4. | | | | | | | |
| From | 110 | ... | Main Line ... ... ... | † 56 0 | 56 0 0 | 22 0 0 | ..... | 12 0 0 | 56 0 0 | 34 0 0 |
| To | 166 | ... | " towards Mooltan | | | | | | | |
| | | | District No. 5. | | | | | | | |
| From | 166 | ... | Main Line ... ... ... | | | | | | | |
| To | 220 | 30 | Sher Shah Terminus, 11½ miles beyond Mooltan Station. ... | † 54 30 | ‡54 50 0 | 50 30 0 | ..... | ..... | 54 50 0 | 50 30 0 |
| | | | Total for Main Line ... | 250 31 | 239 51 0 | 156 35 0 | 11 0 0 | 12 0 0 | 250 51 0 | 168 35 0 |
| | | | Station Yards and Sidings (§) | 30 67 | 15 35 97 | 13 19 97 | ..... | ..... | 15 35 97 | 13 19 97 |
| | | | Total ... | 281 18 | 255 6 97 | 169 54 97 | 11 0 0 | 12 0 0 | 266 6 97 | 181 54 97 |

LAHORE,
*27th January* 1865.

J. HARRISON,
*Chief Engineer.*

* In previous returns the 55th mile had been erroneously included by District Engineer in No. 2, instead of in No. 3 District; error now corrected.

† The road laid with pot sleepers and a portion of wood sleepers; road require ballasting.

‡ Excess of 20 Chains above figured requirement due to additions to meet changes of the landing places at Sher Shah Ghât.

§ Also five miles of tramway to ballast mound, and two sets of points and crossings hitherto returned under this head, but not included in the total of 30 miles 67 chains. It is therefore omitted in this return.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 7.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 18, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th February 1865, and is hereby promulgated for general information :—

Act No. II of 1865.

*An Act to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere.*

Preamble.

Whereas it is expedient to provide for the better maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere; It is enacted as follows :—

"Number."

**1.** In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in districts affected by this Act may assess and collect house tax.

**2.** The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of the District acting under the orders of the local Government to determine what buildings shall be held to be a separate house for the purposes of this Act.

Assessments to be due annually with first instalment of rent.

**3.** The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause 3, Section 23, Act X of 1859.

Regulation IX of 1833, Sections 12 to 15 to apply.

**4.** Sections 12, 13, 14, and 15 of Regulation IX of 1833, shall be applicable to assessments under this Act.

Persons assessed may petition against assessment, and Collector may abate or remit same.

**5.** Any person assessed under Section 2 of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Collector may assess yearly contribution for purposes of this Act.

**6.** It shall be lawful for the Collector or for any Officer making settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor for the purposes of this Act, not exceeding the aggregate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or percentage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

**7.** The sum so assessed shall, subject to the sanction of the local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana Estates.

**8.** The provisions of this Act shall be applicable to Maafee and Nuzerana Estates. Besides the assessments made by the Collector under Section 6 of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

**9.** The local Government may determine by what instalments and at what times, the assessments payable under Sections 6 and 8 shall be paid. Any arrears of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessment.

**10.** Assessments realized under this Act shall be appropriated, under the orders of the local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the local Government for sanatory purposes or any other purpose of general improvement within the District in which the amount is collected.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

**11.** Every proprietor or other person in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on his Estate; and the person so nominated shall after due enquiry be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Jail for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Village Watchmen to perform duties of Policemen under Act V of 1861, in addition to his other duties.

**12.** Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act and guilty of neglect or disobedience, as the case may be.

Power to Government of North-Western Provinces to extend this Act.

**13.** The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX of 1856, or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Governments of India and of the Punjab to extend this Act.

**14.** Subject to the proviso contained in the last preceding Section, the Governor-General of India in Council may extend the provisions of this Act to any Province under the immediate administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his government.

Repeal of inconsistent Rules.

**15.** From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1865, and is hereby promulgated for general information:—

## ACT No. III OF 1865.

*An Act relating to the rights and liabilities of Common Carriers.*

Preamble.

Whereas it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:—

Short Title.

**1.** This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place by land or inland navigation for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 rupees in value, unless delivered as such.

**3.** No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property payment may be required at rates fixed by Carrier.

**4.** Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix: Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be

Proviso.

exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

**5.** In case of the loss of or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

Carriers, with certain exceptions, may limit liability by special contract.

**6.** The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract.

In what case owner of railroad or tramroad answerable for loss or damage.

**7.** The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

**8.** Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or of any of his agents or servants.

Plaintiff's in suits against Common Carriers for loss, damage or non-delivery not required to prove negligence or criminal act.

**9.** In any suit brought against a Common Carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Saving of provisions of Sections 9, 10 and 11 of Act XVIII of 1854.

**10.** Nothing in this Act shall affect the provisions contained in the ninth, tenth and eleventh Sections of Act No. XVIII of 1854 *(relating to Railways in India)*.

## SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hundís.
Currency Notes of the Government of India or Notes of any Banks, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints and Works of Art.
Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

WHITLEY STOKES,
*Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1865, and was referred to a Select Committee with instructions to make their report thereon in one week:—

No. 2 OF 1865.

*A Bill to continue Act No. XXXI of 1860.*

Preamble.

Whereas Act No. XXXI of 1860 *(relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases)*, is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows:—

Act XXXI of 1860 continued.

**1.** Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

**2.** This Act may be cited as "The Arms Act Continuance Act, 1865."

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STATEMENT OF OBJECTS AND REASONS.

Act XXXI of 1860 ("An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases") expires on the last day of October 1865.

The Government of India has directed an enquiry as to the operation of the Act and its incidence on particular classes. Pending such enquiry, the present Bill proposes to continue Act XXXI of 1860 for one year from the expiration thereof.

H. S. MAINE.

*The 2nd February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks:—

No. 3 of 1865.

*A Bill to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.*

Preamble.

Whereas, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and, after that office became vacant, in the Chief Commissioner; and whereas since the introduction of the said Code of Civil Procedure doubts have arisen whether such suits are cognizable by the ordinary Civil Courts in the first instance, and by the Judicial Commissioner on appeal, or by the Revenue Courts in the first instance, and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; and whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows:—

Interpretation Clause.

**1.** In the construction of this Act, except when the contrary appears by the context—

Number.

Words in the singular number shall include the plural, words in the plural number shall include the singular,

Gender.

and words denoting the masculine gender shall include the feminine.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

Suits and appeals relating to land during Settlement to be cognizable in Courts of Revenue.

**2.** In any District in the Province of Oude in which a Settlement of the land revenue is being made, all suits of whatever description arising in such District relating to the title or succession to land, or to the possession of land, or to any right in respect of any land shall, during the period of such Settlement and for such further period thereafter as the Governor-General of India in Council, by a notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal or revision by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner.

Powers of Financial Commissioner as highest Court of appeal.

**3.** The Financial Commissioner shall, with respect to such suits, be deemed the highest Court of appeal in the Province of Oude, within the meaning of the said Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court, and shall be subject to all the rules prescribed with reference to the Sudder Court by the said Code, subject to the restrictions, limitations, and provisos with which the said Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations, and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Courts or Authorities before specified.

**4.** No suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in Section 2, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Certain suits by under-tenants not barred by limitation rules in force in Oude.

**5.** No suit by an under-tenant, other than a Ryot or Cultivator, relating to any under-tenure, which shall be cognizable in any Revenue Court under this Act, shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844.

Suits dismissed on ground of limitation-bar may be revived.

**6.** Any suit or appeal relating to any matter cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the Law of Limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within four months from the date of the passing of this Act. The petition may be written on the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court as the case may be.

**7.** All claims relating to the proprietary right in, succession to or possession of, any land or any right in respect to any land which may accrue after the expiration of the period appointed in Section 2, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Questions relating to land accruing after period mentioned in Section 2.

**8.** No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province, and before the passing of this Act, in or in respect of any suit relating to any proprietary right in, succession to or possession of, any land or any right in respect of any land in the said Province, shall be invalid by reason of any thing contained in the said Code of Civil Procedure.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

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STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced to remove doubts which have arisen as to the legality of the decisions of the Revenue Authorities and the Financial Commissioner of Oude in Judicial cases consequent on the extension to the Province of the Code of Civil Procedure.

Since 1858 the Chief Commissioner has been vested with the powers of Financial Commissioner. The Government of India, under the power reserved in the General Orders of the Governor-General, dated 6th October 1858, which, under the Indian Councils' Act, has the force of law, has lately reconstituted the office under a separate Officer.

The Law of Limitation for the hearing of certain claims to rights of property in land has been extended to twelve years prior to the date at which the Province came under British dominion. This limitation will not extend to claims to rights of occupancy by cultivating tenants.

R. N. CUST.

*The 9th January* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 10th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 5 of 1865.

*A Bill to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.*

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; it it is enacted as follows :—

Short title.

**1.** This Act shall be called "The Punjab Courts' Act, 1865."

"Assistant Commissioner."

**2.** In this Act "Assistant Commissioner" shall include "Extra Assistant Commissioner."

Grades of Courts in the Punjab.

**3.** There shall be eight grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1.)—The Court of the Tahsildar of the second Class.
(2.)—The Court of the Tahsildar of the first Class.
(3.)—The Court of the Assistant Commissioner with ordinary powers.
(4.)—The Court of the Assistant Commissioner with special powers.
(5.)—The Court of the Assistant Commissioner with full powers.
(6.)—The Court of the Deputy Commissioner.
(7.)—The Court of the Commissioner.
(8.)—The Court of the Judicial Commissioner.

Local Government may declare grade to which any Tahsildar or Assistant Commissioner belongs.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar, or any Assistant Commissioner belongs.

Local Government, with sanction of Government of India, may give Naib Tahsildars powers of Tahsildar of second Class.

**5.** The Local Government shall also have power, with the sanction of the Government of India, to invest any Naib Tahsildar with the powers of a Tahsildar of the second Class whenever any necessity may arise for such an arrangement, and to withdraw such powers.

Jurisdiction of Tahsildar of second Class.

**6.** The Tahsildar of the second Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Tahsildar of first Class.

**7.** The Tahsildar of the first Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the power of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with ordinary powers.

**8.** The Assistant Commissioner with ordinary powers shall, on the Civil side, have power to try and determine suits of every description not exceeding one hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with special powers.

**9.** The Assistant Commissioner with special powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

**10.** The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five thousand Rupees, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

**11.** The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the first four grades of lower Courts aforesaid, and on the Criminal side to exercise the powers of a Magistrate, and to hear appeals according to the provisions of the Code of Criminal Procedure. The Deputy Commissioner may also be invested with powers under Act V of 1861.

Jurisdiction of Commissioner.

**12.** The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the Courts of the fifth and sixth grades, and on the Criminal side to exercise the powers of a Sessions Judge, and to hear appeals according to the provisions of the Code of Criminal Procedure.

Court in which suit shall be instituted.

**13.** Every suit shall ordinarily be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Power of Deputy Commissioner to withdraw suits from subordinate Courts, and to direct distribution of work.

**14.** The Deputy Commissioner, on the Civil side, may withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority, and competent in respect of the value of the suit to try the same. The Deputy Commissioner may also direct any distribution of work in the Courts subordinate to him, exercising the like jurisdiction and holding their sittings in the same place.

Power of Chief Court to transfer suits.

**15.** The Chief Court, on the Civil side, may withdraw any suit instituted in any Court subordinate to it (with the exception of Small Cause Courts) and to refer it for trial to any other Court subordinate to its authority, and competent in respect of the value of the suit to try the same.

Suits for immoveable property situated in different districts.

**16.** If the suit be for immoveable property situate within the limits of different districts within the same division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in districts subject to different Commissioners.

**17.** If the districts within the limits of which the immoveable property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to whom the district in which the suit is brought is subject, and the Commissioner to whom such application is made may, with the concurrence of the Commissioner to whom the other district is subject, give authority to proceed with the suit.

"District." "District Court." "Divisional Court."

**81.** The local jurisdiction of a Deputy Commissioner shall be deemed a district for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure. The local jurisdiction of a Commissioner shall, in the same way, be deemed a Division, and his Court a Divisional Court.

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

**19.** Whenever the number of cases depending in any Divisional Court shall be so great as to require the appointment of additional agency, the local Government shall, with the previously obtained sanction of the Governor General of India in Council, have power to invest any Officers with the Civil and Criminal powers of a Commissioner as defined in this Act; the local Government may also on its own authority invest any Judge of a Court of Small Causes with the powers of an Assistant Commissioner with full powers, as aforesaid.

Local Government may invest special Officers with Civil powers of Commissioners, &c., in districts in course of settlement.

**20.** It shall be lawful for the local Government, with the previously obtained sanction of the Governor General of India in Council, in any district in which a Settlement is in progress, to vest any special Officer with the Civil powers of a Commissioner or Deputy Commissioner, or Assistant Commissioner or Tahsildar, on the Civil side, as described in this Act for the purpose of deciding cases with regard to rights in land and the product of land in such district; and it shall be lawful for the local Government on its own authority to empower Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioners in any district in which a Settlement is in progress, to exercise their respective powers in suits regarding rights in land and the product of land on the Revenue side of their respective Courts: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

**21.** It shall be lawful for the local Government, on its own authority, to vest the Financial Commissioner with the powers of the Chief Court as described in Act of 1865 for the purpose of trying all special appeals from Commissioners and Deputy Commissioners

in all decisions passed by them in regular appeal under Section 20: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof.

Proviso.

**22.** No decision or order passed by any Judicial Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Saving of decisions and orders passed before passing of this Act.

**23.** This Act shall commence and come into operation on the first day of May 1865.

Commencement of Act.

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STATEMENT OF OBJECTS AND REASONS.

THE jurisdiction now exercised by the Criminal Courts in the Punjab and its Dependencies, is derived from the Code of Criminal Procedure, but the official title of the Officers exercising the different grades of powers is different. The jurisdiction now exercised by the Civil Courts is derived, not from any express provisions of law, but from orders passed from time to time by the Executive Government. As these orders bear a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called into question; but it is felt that it will be convenient to define the existing powers of the ordinary Courts of Civil and Criminal jurisdiction more particularly, and the opportunity is taken to place the Courts of Judicature of the Punjab on a legal basis, similar to that upon which the Courts of British Burmah and the Central Provinces have been or are being placed, and to give them a similar legal status. This is the first object of this Bill, which follows the form of the Central Provinces' Bill in so far as it defines the jurisdiction of the Courts to which it refers.

The Chief Court of the Punjab will be regulated by a separate Bill now pending before the Council.

A second object of this Bill is to vest certain powers in the Local Government to appoint additional Officers with the powers of a Commissioner, as defined in this Bill, when the pressure of business renders this necessary. The Local Government is also empowered to vest any Judge of a Small Cause Court with the powers of an Assistant Commissioner with full powers, as defined in this Bill. The sanction of the Government of India must be obtained to the appointment of additional Officers, as it entails additional expenditure.

Opportunity is also taken to legalize the jurisdiction of Officers on the Revenue side to try and determine suits affecting rights in land and the product of land. A Commissioner of Settlement has been appointed since the year 1861, vested with the Civil powers of a Commissioner as described in this Bill: under him are subordinate Officers of all grades, but there is no legal sanction to their judicial power which may hereafter be called into question. This Bill gives the Local Government power to appoint such Officers, but the sanction of the Government of India must precede, as in the case above stated.

By the practice of the Punjab, Judicial Officers of all grades have been in the habit of trying all suits affecting rights in land and the product of land on the Revenue side. A final appeal lies to the Financial Commissioner, to the exclusion of the Chief Court of Civil appeal of the Province. A power is granted to the Local Government to invest all Revenue Officers with Civil Court powers for the above-stated purpose so long as a Settlement is in progress; at the close of which such cases will revert to the ordinary jurisdiction of the Civil Courts. This provision corresponds with the provision which has been, with the consent of the Local Government, introduced into the Bill for constituting a Chief Court in the Punjab, and with the provision of the Bill to remove doubts as to the jurisdiction of the Financial Commissioner of Oude. It is to be understood that no change of procedure or law is made by the trial of suits affecting rights in land or the product of land on the Revenue side, but of the tribunal only. Whatever special jurisdiction the Revenue Courts may exercise in summary suits, or other suits made over to the Revenue Officers by special enactment, remains unchanged by this Bill, which relates only to suits regarding land and the product of land.

This Bill provides that no decision shall be set aside on account of any flaw in jurisdiction.

R. N. CUST.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Report of the Select Committee, together with the Bill as settled by them was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1865 :—

REPORT.

We, the undersigned Members of the Select Committee of the Council of the Governor General of India, for the purpose of making Laws and Regulations, to whom the Bill to amend the Procedure of Her Majesty's High Courts of Judicature, in the exercise of their Original Criminal Jurisdiction was referred, have considered the papers noted in the margin, and have the honour to submit the following Report :—

Minute by the Acting Chief Justice, High Court, Bombay, dated 12th September 1864.
From Mr Justice Forbes, No. 1003, dated 20th September 1864.
Minute by Mr. Justice Couch, dated 21st September 1864.
Remarks by Mr. Justice Levinge, dated 20th September 1864.
Minute by Mr. Justice Bayley, dated 21st September 1864.
Presentment by the Grand Jury, Calcutta, dated 27th September 1864.
From Advocate General, dated 19th February 1859.
From ditto, No. 27, dated 18th April 1860.
From Assistant Secretary to Government, Madras, dated 19th October 1864.
Note by Mr. Justice Norman, dated 17th November 1864.
Additional Minute by Mr. Justice Levinge, dated 18th November 1864.
From Mr. Justice Westropp, High Court, Bombay, dated 9th November 1864
From Acting Registrar, High Court, Madras, dated 15th November 1864.
Observations of the Chief Justice, High Court, Madras.
Presentment by Grand Jury, Madras, dated 3rd November 1864.
From Clerk of the Crown, No. 1784, dated 3rd December 1864.
Presentment of majority of Grand Jury, Calcutta.
Note by the Hon'ble the Mahárájá of Burdwan.
Petition of British Indian Association, dated 31st December 1864.

2. The abolition in India of the institution of the Grand Jury, though not the most important

feature of the Bill, is that which has attracted the greatest share of public attention: we therefore deem it our duty, in the first instance, to notice that part of the proposed measure.

3. By the 8th Section of the 24th and 25th of Victoria, Cap. 104, the Supreme and Sudder Courts in Calcutta, Madras, and Bombay were abolished. By the 9th Section of the same Act, it was provided that the High Courts of the three Presidencies, established in the places of such Supreme and Sudder Courts, "should have and exercise all such powers and authority in relation to the Administration of Justice as Her Majesty by Letters Patent should grant and direct."

4. In forwarding the Letters Patent of the High Court in Calcutta, Her Majesty's Secretary of State for India stated, in the 25th paragraph of his letter of the 14th of May 1862, that, under certain Clauses, no change would, for the present, be effected by the Charter in the Administration of Criminal Justice in the Presidency Town, or in respect of persons subject to the Criminal Jurisdiction of the High Court residing in the interior of the country; but that it appeared to him some modification of the existing practice both in the Capital and the Mofussil was necessary, and that, on those points, he would address the Government of India in a separate despatch.

5. Her Majesty's Secretary of State, accordingly, in a despatch dated 29th February 1864, expressed his opinion that, as the most obvious reform in the mode of dealing with Criminal charges in the Presidency Towns, Grand Juries should be abolished, and he requested "that steps might be taken for the early introduction into His Excellency the Viceroy's Council of the necessary measure."

6. In support of the conclusion stated in this letter, Her Majesty's Secretary of State referred to two documents, 1st, a Presentment of the Grand Jury in Calcutta in December 1862; 2nd, the first Report of the Indian Law Commissioners.

7. The Grand Jury of Calcutta, in the Presentment to which the Secretary of State alluded, stated, with reference to certain cases of minor importance in the Calendar, "that such cases should not occupy the time of the Grand Jury, but be summarily dealt with by the Bench of Magistrates," and they presented, for the consideration of the Court, a recommendation for legislative enactment that may, "while preserving the institution of the Grand Jury in all its integrity, relieve it from the investigation of such petty charges as constitute the majority of cases in the Calendar of the Criminal Sessions."

8. The other document to which Her Majesty's Secretary of State referred, was the first Report of the Indian Law Commissioners. In the 151st page of that Report the following remarks appear:—

"The provisions proposed by us on the subject of Juries, commence with a rule to the effect that Grand Juries shall be abolished. This institution has never existed in India out of the Presidency Towns, is not adapted to the country, and as coming between the Magistrate and the Sessions Judge, so as to control in any way the proceedings of the former, would not be understood or appreciated by the great mass of the community. The retention of the Grand Juries in Calcutta would involve a very wide, and, as we think, an unnecessary diversity from the practice of the Mofussil in the mode of dealing with criminal charges."

9. In accordance with the foregoing view, the Bill submitted to the Council was prepared. Its provisions have been generally approved by Her Majesty's Government in a despatch dated 7th November 1864, received since the introduction of the measure, but a few modifications on points of detail, not material to the present discussion, have been suggested.

10. The abolition of Grand Juries has been expressly approved by the High Court and the Grand Jury of Madras. In Bombay, it has been approved by all the Judges excepting the Chief Justice. We have also strong reason for believing that the communities of Madras and Bombay, European as well as Native, are favourable to the measure. In Calcutta, a former Grand Jury, as has been stated, considered that a majority of the cases generally found in the Calendar should be removed from the cognizance of Grand Juries.

11. Considering, then, that the abolition of Grand Juries in India has been recommended by the Royal Commissioners and also by Her Majesty's Government, invested, as it has been, by Act of Parliament with special power in that behalf; considering also, that the proposal to abolish them is supported by the communities of Madras and Bombay, we think that, even apart from the question whether a Grand Jury is in itself and in other countries an useful institution, it would be difficult to find reasons for preserving it in India, much more for extending it to the Mofussil. Such extension, indeed, we believe to be almost impracticable. The information laid before us leads us to think that the material for Juries beyond the Presidency Towns is not more than sufficient to supply a satisfactory list of Common Jury-men. We desire, moreover, to call attention to the fact that unless the Legislature should re-establish that restriction of the right to serve on Juries which was expressly repealed by Statute 2 and 3 Will. 4, Cap. 117, Sec. 2, a Grand Jury over a large part of India would be chiefly composed of Native Gentlemen, as may be collected from the subjoined extract from the Jury Rules.* Whether this result would, in practice, be beneficial, it is unnecessary to consider, since it is not desired by the Europeans, and the documents expressive of Native opinion, which are before us, lead us to believe that the system of Grand Juries is not regarded with favour by the Natives.

12. Our Hon'ble Colleague, Mr. Bullen, while he admits, that the establishment of the Grand Jury system in the Mofussil is impracticable, and while he acknowledges the difficulty of retaining

* "All covenanted servants of the Hon'ble Company's Civil Service, all persons who, according to the usage of England, are entitled to the style and addition of Esquire, or of any higher degree, or who shall be described in the lists hereinafter mentioned as Merchants or Bankers, all persons whose claims to the title of Rajah, or to have about them any insignia of equivalent rank, have been formally acknowledged by the Government, or whose rank or superiority of caste, according to the usage of their tribe or religion, would prevent them from sitting on Common Juries, or whose property, or interest in lands, tenements, or goods, would be worth two hundred thousand Rupees, after the payment of their just debts, shall be exempted from serving on any other than Special or Grand Juries; provided always that if any person, who is entitled to this exemption, shall be willing to waive the same and to serve on Common Juries, an entry to that effect shall be made in a separate column, upon the lists and book hereinafter mentioned, and the party shall be deemed to be qualified and liable to serve, both on Special and on Common Juries."

it for Calcutta, so long as Madras and Bombay are desirous of dispensing with it, is nevertheless of opinion that if it had not been for the view which appears to be taken of the subject, in Madras and Bombay, Grand Juries might have been retained in the Presidency Towns, though not extended to the Mofussil.

13. The portion of the proposed measure to which we have given our most serious attention is that which provides facilities for the trial of European British subjects at or near the place at which they are alleged to have committed offences. The Bill, as originally framed, continued in effect for the Mofussil the system which has been established by Act of Parliament in the Presidency Towns, and under which much of the procedure in criminal trials is regulated by rules of the High Court. But Her Majesty's Government, and nearly all the Judges who have adverted to the subject, have expressed the opinion that many matters, which, in the Presidency Towns, depend upon rules of Court should, in the Mofussil at all events, be governed by express legislation. In accordance with this opinion, the Committee have made large additions to the Bill.

14. In order to explain the modifications which this measure will effect in the mode of trying European British subjects, it may be convenient to describe the course which, if the Bill becomes law, will be followed whenever a European British subject is charged in the Mofussil with an offence for which he would now be committed to the Presidency Town. As soon as the Magistrate has determined to commit the accused person, he will send to the High Court a copy of the charge and of the depositions and other documents connected therewith. The High Court, after communicating with Government—a communication of which the object is to inform the Court whether there is any intention of issuing a Commission within a reasonable time—will decide whether the person charged shall be tried at any place specified in such Commission, or shall be sent for trial as at present to a Presidency Town. The Magistrate will then commit him or hold him to bail in conformity with the direction of the High Court.

15. Some such system as that described in the last paragraph is for the present necessary to prevent the detention of accused persons during periods of unreasonable length. It is probable that, until proper accommodation for European prisoners has been provided in the Jails, and until further facilities of communication exist between the Presidency Towns and the large Mofussil Cities, the Government will only be able to depute Judges under Commission at irregular and uncertain intervals. We do not think that Europeans should be committed as of course for local trial until a system of regular Jail deliveries at fixed and not too long intervals can be established. But, in anticipation of the complete or partial establishment of such a system hereafter, we have provided that the High Court may, by a general order, direct that all Europeans who may be charged with offences within certain districts and within certain parts of the year shall be committed for trial at some particular place. When such an order has been given, the Magistrate will not be under the necessity of waiting for any special direction from the High Court before committing or bailing the accused person for trial at such place.

16. When a European British subject is tried by a Judge of the High Court in the Mofussil, the proceedings will be governed in general by the Code of Criminal Procedure. It appears to us that the provisions of the Code, when applied to trials before a Judge of such authority and rank, may be conveniently modified in several particulars. Sections 37 to 41 of the Bill as amended by us contain the modifications in question. Their effect is to bring a trial before a Judge of the High Court in the Mofussil into close harmony with similar trials in the Presidency Towns.

17. All trials before a Judge sitting under Commission will be by Jury. The composition of the Jury is a matter which has engaged our anxious attention, and has been much discussed by us.

The Jury recommended for the Presidency Towns by the Royal Commissioners—which is a Jury of *nine* deciding by a majority of two-thirds if the Judge concur—appears to us preferable to the Jury system of the Code of Criminal Procedure. But we have finally decided to retain the familiar number of twelve, the verdict to be carried either by unanimity among the Jurors or by a majority consisting of nine, in the event of the Judge concurring. Absolute unanimity, which might entail the frequent discharge of Juries, we consider to be excluded by the largeness of the Jury we have determined upon, and by the scantiness of good Jury material in the Mofussil.

18. We have followed the principle which the Code of Criminal Procedure applies to the trials of Americans and of Europeans who are not British subjects, in providing that the majority of the Jury empanelled for the trial of a European British subject shall, if he so require, consist of Europeans or Americans. To secure a sufficient number of European Jurors, we have partially repealed the exemption of Military men from Juries under the Code, and we have permitted Commissioned and Non-Commissioned Officers to be summoned. We have, however, provided that no summons shall issue until after communication with the Commanding Officer, and that no Military man shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent Military duty.

19. As it is scarcely probable that the trials of European British subjects will occupy the whole time of the Judge during his sittings under Commission at a particular place, we have provided that he shall try such other persons committed to the Sessions Court of the place as he shall think proper. We have also made provision for including in the Commission any Barrister-at Law of five years' standing or Sessions Judge, who, under the name of Associate Judge, may try any person not being a European British subject whom the High Court Judge may direct him to try; but such last-mentioned trials will be regulated exclusively by the Code of Criminal Procedure. If the Judge of the High Court and an Associate Judge sit together, the former will exclusively conduct the trial.

20. We desire to add that the 30th Section of the Letters Patent of the Bengal High Court, and the corresponding Sections of the Letters Patent of the Madras and Bombay High Courts, which are repeated in Sections 22, 23, and 24 of the Bill, empower a Judge or Judges of the High Court, sitting under Commission, to exercise the same jurisdiction, power and authority as might be exercised by a Judge or Judges of the High Court at the Presidency Towns. Section 25 of the present Bill, which is in harmony with the Letters Patent, enables the High Court to allot such

part of its extraordinary original civil jurisdiction, civil and criminal appellate jurisdiction and jurisdiction as a Court of revision or reference as the High Court may consider can be more conveniently exercised at the places mentioned in the Commission than at its usual place of sitting.

21. The changes we propose to effect in the Criminal Procedure of the High Court exercising jurisdiction at the Presidency Towns are not, apart from the abolition of the Grand Jury, of great importance. We have provided that all charges of capital crimes, and all the cases which the High Court may, on account of their difficulty, or for any other reason, direct to be so tried, shall be tried by Special Jury, a mode of trial now only in use for misdemeanors and of uncertain application since the enactment of the Indian Penal Code. The Special Jurors will be exempt from service on Common or Petty Juries, and the Special Jury list will, in the first instance, comprise all gentlemen now entitled to the privilege of serving on Grand Juries. But as we trust that, when the machinery of the Bill is in full operation, it will not exhaust the Petty Jury list to the extent to which it is now exhausted by the Grand Jury, we have provided that no addition shall be made to the Special Jury list until by death, departure from India, or other loss of qualification, the Special Jurors shall be reduced to two hundred, which number we think sufficient for the Special Jury cases likely to be tried in the Presidency Towns. When the number of Special Jurors is below two hundred, we provide that the full number shall be completed by selection on the part of some Officer nominated by the Chief Justice, regard being had to property, education, character, and intelligence. It may be remarked that, as we prescribe a maximum number of Special Jurors, no fixed qualification can be assigned, and the power vested in the selecting Officer must be entirely discretionary.

22. Finally, we desire to observe that, whether a trial under this Bill takes place in the Presidency Towns or in the Mofussil, a Judge of the High Court, if upon perusal of the depositions he considers any charge to be clearly unsustainable, will have the power to make an entry to that effect. Such an entry will operate in the Presidency Towns as a *nolle prosequi*, and will have practically the same result in the Mofussil. Moreover, if no further charge against the same person on the same grounds be preferred in three years, he will be placed in the same position as if he had been actually acquitted. The power of making such an entry we regard as an unobjectionable substitute for the functions of a Grand Jury.

23. Mr. Bullen individually prefers, for the trial of European British subjects in the Mofussil, an unanimous Jury of seven, consisting wholly of Europeans or Americans, to the Jury which the Committee has agreed to recommend.

24. We recommend that the Bill as amended by us be passed, but that it be previously republished with this Report in the *Official Gazette*.

H. S. MAINE.
C. BEADON.
R. NAPIER.
H. B. HARINGTON.
W. GREY.
H. L. ANDERSON.
J. N. BULLEN.
W. MUIR.
R. N. CUST.
D. COWIE.

*The 15th February* 1865.

## AMENDED BILL.

No. 19 OF 1864.

*A Bill to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.*

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, in the exercise of their original criminal jurisdiction, and also to provide for the exercise by such Courts of original criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit: It is enacted as follows:—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice."

"Chief Justice" shall include an Officiating Chief Justice.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India."

"British India" denotes the territories which are or may become vested in Her Majesty under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore and Malacca.

Gender and Number.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

*Of Charges where the accused is committed in a Presidency Town.*

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

**3.** Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which according to law may be dealt with as if it had been committed

within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he will, to amend, alter or add to the charge.

**4.** The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Charge with amendments, alterations or additions (if any) to be recorded.

Accused to have copies of examinations.

**5.** The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same not exceeding one anna for each folio of ninety words.

Effect of charge.

**6.** Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Provision of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

**7.** In Act XVIII of 1862 *(to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature)*, the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

*Nolle prosequi* on unsustainable charge.

**8.** When any such charge shall have been recorded in the High Court as aforesaid and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

*Of Grand Juries.*

After commencement of this Act, Grand Jury not to be summoned.

**9.** From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors unless they have been summoned before the commencement of this Act.

**10.** No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

*Of Juries in the Presidency Towns.*

Certain trials to be held before Special Jurors.

**11.** Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year to be taken as giving the first list of Jurors and Special Jurors.

**12.** The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

**13.** The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving in Common Juries.

**14.** All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

**15.** The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall before the fifteenth day of April, which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent 15th day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Preparation of lists of Jurors and Special Jurors.

**16.** The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Officer preparing the lists to have full discretion: no appeal from his decision.

**17.** The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Lists of Jurors to be published in the Gazette.

**18.** Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Jurors and Special Jurors to be numbered for each Sessions.

*Of Challenges of Jurors in the Presidency Towns.*

**19.** A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array; and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

Challenges.

(1.) Some personal objection, such as alienage, infancy, old age or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the juror.

(3.) A previous conviction of the juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

**20.** The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge the juror shall be set aside.

Judge to try challenge.

**21.** Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging and service of jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new Rules made under this Section.

High Court to retain its present jurisdiction as to jurors in Presidency Towns except as altered by this Act.

*Of Sittings under a Commission.*

**22.** From and after the commencement of this Act, whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of such High Court to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

**23.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the place and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions con-

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

tained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

**24.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power and authority, as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

**25.** The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference which it is competent to exercise at its usual place of sitting as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall travel.

**26.** Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and the limits of such districts or places shall be defined by notification in the Official Gazette.

Power to appoint an Associate Judge.

**27.** The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary inquiry without the local limits of the original criminal jurisdiction.

**28.** Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court, to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall request information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent, to the Clerk of the Crown, shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Criminal Procedure Code.

**29.** The charge, whether it shall or shall not have been amended, altered, added to under the last preceding Section shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to, as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

**30.** Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section shall (if not

out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail of the High Court in such usual place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall if necessary cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

**31.** It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usua place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall if not bailed be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section to be given, and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section shall be dealt within all respects, as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section.

Jurisdiction over European British subjects tried under Commission.

**32.** When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

**33.** The Judge of the High Court acting under such Commission in the place and manner therein mentioned and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

**34.** All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

**35.** Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if

Military men not exempt.

no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subject.

**36.** If the person charged shall be a European British subject and shall so require before the jury shall be empannelled, the majority the jurors shall consist of of Europeans or Americans. If such a jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Number of jury requisite to verdict of guilty.

**37.** On every trial mentioned in the thirty-fourth Section of this Act, the jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Acts not of a judicial nature may be done by Clerk of the Crown.

**38.** During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

**39.** So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

**40.** So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

**41.** When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Procedure where no such question reserved.

Save as aforesaid Criminal Procedure Code to apply to juries under Commission.

**42.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

High Court Judge may direct Associate Judge to try any one triable under Commission not an European British subject.

**43.** If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

**44.** From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other

than any place referred to in the twenty-second, twenty-third and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Commencement of Act.

**45.** This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

Act not to extend to Straits' Settlement.

**46.** This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore and Malacca.

## HOME DEPARTMENT.

No. 1327.

*Fort William, the 13th February* 1865.

NOTIFICATIONS.

The services of Mr. J. T. Crawford, Junior Civil Servant, are placed at the disposal of the Foreign Department for employment in Oudh.

No. 1432

*The 15th February* 1865.

Mr. A. M. Monteath, Under Secretary to the Government of India in this Department, returned, on the 13th instant, from the leave granted to him on the 15th of December last, and resumed the duties of his appointment.

No. 1433.

The following promotions are made in the Revenue Survey Department, Upper Provinces, with effect from the 1st January 1865 :—

*Assistant Revenue Surveyor of the 2nd Class to be Assistant Revenue Surveyor of the 1st Class.*

Mr. W. Ellison, 2nd Division, Central Provinces.

*Sub-Assistant Revenue Surveyors of the 3rd Class to be Sub-Assistant Revenue Surveyors of the 2nd Class.*

Mr. W. A. Wilson, 3rd Division, Oudh.
" T. W. Reilly, 3rd " "
" W. S. Buttress, 1st " "
" H. Walsh, 3rd " "
" W. H. Reynolds, North-Western Frontier.
" A. J. Gibson, ditto.
" E. C. Barratt, 4th Division, Central Provs.

*Junior Sub-Assistant Revenue Surveyors to be Sub-Assistant Revenue Surveyors of the 3rd Class.*

Mr. J. E. Swyney, 1st Division, Oudh.
" H. Dowman, Left Bank Indus, Scinde.
" E. Little, 1st Division, Central Provinces.
" J. H. Barter, 3rd " "
" H. T. Hanby, 1st " Oudh.

*Probationary Sub-Assistants to be Junior Sub-Assistant Revenue Surveyors.*

Sergeant J. Mills, 2nd Division, Oudh.
" W. Street, 2nd " "
" A. Lawson, 3rd " Central Provinces.
" J. Parker, 4th " ditto.
" J. Guildford, 4th " ditto.

No. 1436.

Mr. E. C. Mason and Mr. C. W. F. Seyers are appointed Junior Sub-Assistants in the Revenue Branch of the Survey Department, the former from the 23rd November, and the latter from the 1st December 1864.

No. 1449.

The Governor General in Council is pleased to attach Messrs. F. J. G. Campbell, W. E. Kinsey, C. F. Magrath, and H. Mosley, of the Civil Service, reported qualified for the Public Service, to the Bengal Division of the Presidency of Fort William.

No. 1450.

The Governor General in Council is pleased to attach Messrs. C. M. Rivaz and J. T. Crawford, of the Civil Service, reported qualified for the Public Service, to the North-Western Provinces, the Punjab, and Oudh.

No. 1495.

The services of Mr. C. M. Rivaz, Junior Civil Servant, are placed at the disposal of the Foreign Department for employment in the Punjab.

No. 1496.

Mr. C. M. Rivaz, Junior Civil Servant, having, within the prescribed interval after arrival in India, passed Examinations in two languages, has been presented with the authorized donation of Rupees 800.

No. 1497.

Mr. F. J. G. Campbell, Junior Civil Servant, having obtained a Certificate of High Proficiency in Bengalli, has been presented with the authorized donation of Rupees 800.

No. 1498.

The Governor General in Council is pleased to re-attach to the North-Western Provinces, the Punjab, and Oudh Mr. G. B. Pasley, of the Civil Service, who reported his return from Furlough on the 13th instant.

No. 1499.

Mr. James C. Robertson, of the Civil Service, has reported his departure from India by the "Simla" on the 10th instant.

No. 1500.

The services of Captain C. MacFarlane, of the Bengal Staff Corps, are replaced at the disposal of the Military Department.

No. 1501.

Lieutenant C. Case, Assistant Commissioner of the 3rd Grade in Oudh, is invested with the powers of a Subordinate Magistrate of the 1st Class, as described in Section 22 of Act XXV. of 1861.

No. 1502.

Mr. J. Connor, Mr. T. Dunne, and Mr. E. Lincoln are appointed Junior Sub-Assistants in the Revenue Branch of the Survey Department from the 15th February 1865.

No. 1503.

The Governor General in Council is pleased to extend Act XVIII of 1864 to the Cantonment and town of Kamptee, and to sanction a declaration by the Chief Commissioner that Sections 13 and 14 of the aforesaid Act shall have no force in the Cantonment and town of Kamptee.

The following Officers shall be ex-officio members of the Municipal Committee of the said Cantonment and Town :—

1. The Commissioner of the Nagpore Division.
2. The Brigadier General Commanding the Nagpore Field Force.
3. The Deputy Inspector General of Hospitals, Nagpore Field Force.
4. The Deputy Commissioner of Nagpore.
5. The Assistant Quarter Master General, Nagpore Field Force.
6. The Cantonment Magistrate of Kamptee.

No. 1504.

Lieutenant G. H. Trevor, R. A., officiated as Inspector of Schools, Eastern Circle, Central Provinces, from the 12th August 1862 to the 20th June 1864.

Notification No. 218, dated the 9th January 1865, is cancelled.

No. 1505.

The under-mentioned Officer in the Central Provinces is invested with the powers of a Magistrate of the Second Class, as described in Section 22 of Act XXV of 1861 :—

Kashee Rao Goojier, Tehseeldar of Kutole, in the Nagpore District.

No. 1506.

The Governor General in Council is pleased, under Section 39 of Act XXII of 1864, to extend the said Act to the Cantonment of Rangoon, and to invest Captain J. D. S. Bennet, of the 5th Regiment, Madras Native Infantry, Cantonment Magistrate of that Station, with the powers of a Judge of the Court of Small Causes, and with power to try suits under Section 6 of the above Act up to Rs. 400 within the limits of the said Cantonment.

For the purposes of the said Act, the Chief Commissioner of British Burmah is invested with the powers of a Sudder Court as provided for in Act XLII of 1860.

No. 1507.

Major E. M. Ryan, Deputy Commissioner of the 3rd Grade in British Burmah, to be Magistrate of Rangoon, vice Captain E. B. Sladen.

No. 1508.

The Governor General in Council has been pleased to appoint Lieutenant Q. S. A. Jamieson, of the 27th Regiment, Madras Native Infantry, an Officiating Assistant Superintendent of Police in British Burmah.

No. 1509.

Lieutenant G. E. Fryer, appointed Officiating Assistant Commissioner, 3rd Class, in Notification of the Foreign Department, No. 1554 of the 13th December 1864, made over charge of the Office of Superintendent of Police, Sandoway District, to Mr. H. W. Beddy, Deputy Commissioner of that District, on the forenoon of the 7th January.

No. 1510.

*The 16th February* 1865.

Mr. F. R. Hogg, Post Master General of the Punjab, has obtained privilege leave of absence for six weeks, commencing from the 18th January 1865.

No. 1511.

*The 17th February* 1865.

The Governor General in Council is pleased to direct the following addition to be made to List No. II, published under date the 29th September 1854, of parties authorized to send letters and official *Gazettes, bonâ fide* and *exclusively* on the Public Service, relating to the business of their respective departments, without actual payment of postage, but only to the authorities hereinafter named, viz :—

| | | |
|---|---|---|
| The Superintendent of the Office of the Inspector General of Police, North-Western Provinces, | to | Commissioners and Magistrates, North-Western Provinces, in addition to the Officers mentioned in Notification No. 801, dated 24th April 1861. |

No. 1512.

The Governor General in Council is pleased to attach Mr. W. H. Thompson, of the Civil Service, reported qualified for the Public Service, to the Bengal Division of the Presidency of Fort William.

No. 1513.

Mr. D. Cargill, Assistant District Superintendent of Police, Lucknow, has obtained one month's privilege leave from the 1st of April next, or from such subsequent date as he may avail himself of it.

No 1514.

The under-mentioned Civil Assistant and Sub-Assistants of the Topographical Branch Survey Department are promoted from the dates specified opposite their respective names :—

Mr. N. A. Belletty, from Civil Assistant to Senior Civil Assistant, from 1st January 1865.

Mr. T. W. Bobanau, from 3rd to 2nd Class Sub-Assistant, from 1st November 1864.

Mr. J. A. Craven, from 3rd to 2nd Class Sub-Assistant, from 1st January 1865.

No. 1515.

Three months' privilege leave is granted to Dr. W. F. Goss, Civil Surgeon of Sumbulpore, from the 1st March next, or from such date as he may avail himself of the same.

E. C. BAYLEY,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

JUDICIAL.

No. 52.

*Fort William, the 15th February* 1865.

Under the provisions of Section 1, Act I of 1865, His Excellency the Viceroy and Governor General of India in Council is pleased to extend Act 28 of 1860 to the Province of Coorg.

REVENUE.

No. 72.

*The 13th February* 1865.

Lieutenant F. W. Major, of the Royal Artillery, is appointed to be a Probationary Assistant Superintendent in the Mysore Revenue Survey.

MILITARY.

No. 70.

*The 16th February* 1865.

Lieutenant G. F. Blowers, Adjutant of the Malwa Bheel Corps, resumed charge of his office from Lieutenant S. C. Mactier on the forenoon of 20th January 1865.

The services of Lieutenant Mactier are replaced at the disposal of the Military Department.

GENERAL.

No. 355.

*The 13th February* 1865.

Mr. H. Gibson, Assistant Commissioner in Oudh, is promoted from the 3rd to the 2nd Grade, vice Mr. T. Monck Mason, whose services have been placed at the disposal of the Bombay Government.

Mr. H. S. Boys, Officiating Assistant Commissioner, to be Assistant Commissioner, 3rd Class, vice Captain Phaire.

No. 357.

Privilege leave of absence for 3 months is granted to Captain H. F. Bolton, Assistant Commissioner in the Central Provinces, with effect from the date on which he may avail himself of it.

No. 359.

Lieutenant J. C. Berkeley, Officiating 2nd Assistant to the Governor General's Agent for Central India, conducted the duties of Deputy Opium Agent in Malwa, during the absence of Major A. L. McMullin, from the 6th September to the 31st October 1864.

No. 361.

Captain H. A. Browne, Officiating Deputy Commissioner, 3rd Grade, British Burmah, in charge of the Myan Oung District, made over charge of the current duties of his office to Mr. C. Phillips, Extra Assistant Commissioner, on the forenoon of the 8th November 1864, and resumed charge thereof on the forenoon of the 28th idem.

Mr. E. O'Riley, Deputy Commissioner, 2nd Grade, in charge of the Martaban District, made over charge of the current duties of his office to Mr. W. DeCourcy Ireland, Assistant Commissioner, on the forenoon of the 12th December 1864.

Captain W. P. Harrison, Officiating Deputy Commissioner, 3rd Grade, made over charge of the Treasury and District of Tavoy to Lieutenant C. W. Street, Officiating Deputy Commissioner, 4th Grade, on the afternoon of the 23rd December 1864.

Mr. W. H. Beddy, Officiating Deputy Commissioner, 3rd Grade, at Sandoway, returned from the district, and resumed charge of the Treasury and current duties of his office, on the forenoon of the 19th December 1864, from Moung Htoon, Acting Tseetkay.

No. 362.

The Governor General in Council is pleased to permit Assistant Surgeon G. N. Cheke, in medical charge of the Nipal Residency, to resign his appointment from the 1st proximo, and to replace that Officer's services at the disposal of the Military Department.

G. O. No. 189, dated 25th ultimo, is accordingly cancelled.

No. 383.

*The 16th February* 1865.

Mr. W. H. Beddy, Deputy Commissioner of Sandoway, 4th Grade, made over charge of the Treasury in the afternoon of the 7th January 1865, to Moung Htoon, Acting Extra Assistant Commissioner, 2nd Grade.

Mr. G. E. Barr, Officiating Assistant Commissioner, 3rd Grade, made over charge of the Office and Treasury of the Amherst District to Lieutenant Colonel D. Brown, Deputy Commissioner, 2nd Grade, in the forenoon of the 24th December 1864.

No. 384.

The services of Colonel R. G. Taylor, C. B., of the Bengal Staff Corps, are placed at the disposal of the Punjab Government.

No. 386.

Captain F. H. Hanmer, of the late 34th Regiment Native Infantry, is appointed to be an Assistant Commissioner in the Central Provinces from the date of Captain T. Wakefield's departure on medical leave.

No. 392.

Mr. H. G. Ross, Assistant Commissioner in Oudh, reported his return to India on the 13th instant, from the sick leave granted him in G. O. No. 592, dated 7th April 1863.

No. 397.

*The 17th February* 1865.

Captain A. R. McMahon, Officiating Deputy Commissioner, 4th Class, British Burmah, and Magistrate of Akyab, has obtained privilege leave of absence for five weeks from the afternoon of the 16th December 1864.

Captain McMahon made over charge of his office to Captain Spilsbury, Deputy Commissioner of Akyab, on the above date.

A. COLVIN,

*Offg. Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 847.

*Fort William, the 13th February* 1865.

NOTIFICATIONS.

The following Statement of the Silver received and coined in the Mints of Calcutta, Madras, and Bombay, in December 1864, is published for general information :—

| | CALCUTTA. | | | MADRAS. | | | BOMBAY. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Bullion or Coin received during the month valued in Rupees. | | Coined and examined during the month valued in Rupees. | Bullion or Coin received during the month valued in Rupees. | | Coined and examined during the month valued in Rupees. | Bullion or Coin received during the month valued in Rupees. | | Coined and examined during the month valued in Rupees. |
| | Govt. | Merchts. | | Govt. | Merchts. | | Govt. | Merchts. | |
| In December 1864 | 74,300 | 9,78,872 | 41,01,140 | 5,365 | 2,38,214 | 8,25,000 | 3 | ..... | 40,98,867 |

No. 848.

*Statement of the amount of Government Currency Notes in circulation, of the amount of Coin and Bullion Reserve, and Government Securities held by the Department of Issue of Paper Currency.*

| Date of Return. | Circles of Issue. | Notes in Circulation. | Silver Coin Reserve. | Silver Bullion Reserve. | Government Securities held in Calcutta. | Gold Coin Reserve. |
|---|---|---|---|---|---|---|
| 1865. | | | | | | |
| Feb. 4th | Calcutta Circle ... | 2,90,94,920 | 1,06,31,775 | 46,00,000 | 1,38,63,145 | ... |
| „ „ | Allahabad Branch do. | 17,52,410 | 10,51,740 | ..... | 7,00,000 | 670 |
| „ „ | Lahore do. do. | 11,27,050 | 6,25,890 | ..... | 5,00,000 | 1,160 |
| „ „ | Nagpore do. do. | 3,01,350 | 1,50,650 | ..... | 1,50,000 | 700 |
| „ „ | Madras Circle do. ... | 54,00,000 | 18,96,137 | ..... | 35,03,863 | ... |
| „ „ | Calicut Branch do. | 1,09,560 | 1,09,560 | ..... | ..... | ... |
| „ „ | Trichinopoly do. do. | 1,28,150 | 1,28,150 | ..... | ..... | ... |
| „ „ | Vizagapatam do. do. | 61,340 | 61,340 | ..... | ..... | ... |
| „ „ | Bombay Circle ... | 3,60,00,000 | 1,59,71,997 | 30,00,000 | 1,70,28,003 | ... |
| | | 7,39,74,780 | 3,06,27,239 | 76,00,000 | 3,57,45,011 | 2,530 |
| *Deduct*— Notes of other Circles cashed at Head Office ... ... | | 43,960 | 43,960 | ..... | ..... | ... |
| | Total ... ... | 7,39,30,820 | 3,05,83,279 | 76,00,000 | 3,57,45,011 | 2,530 |

DEPARTMENT OF ISSUE OF PAPER CURRENCY,
CALCUTTA,
*Dated 8th February* 1865.

H. HYDE,
*Head Commissioner, Department of Issue of Paper Currency.*

No. 884.

*The 16th February* 1865.

Mr. E. F. Harrison, Officiating Deputy Auditor and Accountant General and Civil Pay Master, British Burmah, made over charge of his office to his Chief Assistant, Mr. C. R. Kiernander, on the forenoon of the 8th February 1865.

No. 896.

Mr. W. E. Gordon, Officiating First Assistant Auditor General of India, to be an Auditor of the Accounts of the Administrator General in Bengal.

No. 918.

Mr. H. Ronaldson received charge of the office of Chief Assistant in the Establishment of the Auditor General of India on the forenoon of the 11th February 1865.

No. 948.

*The 17th February* 1865.

Assistant Surgeon H. E. Busteed, Civil Surgeon of Cuddalore, to be Assistant Assay Master of the Madras Mint.

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 11th February* 1865.

*No.* 157 *of* 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, the following Horse Guards Circular No. 135 of the 5th November 1862, is declared applicable to India, and the provisions of Government General Order No. 7 of the 5th January 1853, are hereby cancelled.

CIRCULAR No. 135.

Complaints having been made of the frequent loss of medical comforts and Government stores placed on board vessels conveying Troops to or from India, His Royal Highness the General Commanding-in-Chief, with the concurrence of the Secretary of State for War, directs Officers Commanding on board such ships to pay particular attention to the issue and safe custody of those articles.

Medical comforts are placed on board, in charge of the Master, for use during the voyage. They are issued upon the requisition of the Medical Officer and the Officer Commanding the Troops. Any that remain in the possession of the Troops, at the conclusion of the voyage, will be returned to the Master of the vessel, and a receipt taken for them.

Hammocks, blankets, &c., issued to the Troops for the voyage, will be returned in like manner to the Master of the vessel, and a receipt taken.

All deficiencies not accounted for to the satisfaction of a Board of Officers, will be charged to the Troops.

The Officer Commanding on board will be held responsible for the payment of such charges.

(Signed) RICHARD AIREY,
*Quarter Master General.*

QR. MR. GENL.'S OFFICE,
HORSE GUARDS;
*The 5th November* 1862.

*No.* 158 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 402, dated 24th December 1864, is published for general information :—

MILITARY. INDIA OFFICE,
No. 402. *London, 24th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have to inform you that Her Majesty has been pleased to approve of Major General J. R. Smyth, C. B., being placed upon the Staff of the Army as a Major General, with the view to his Commanding a Division in the Madras Presidency, in succession to Major General W. A. McCleverty, whose period of service will expire on the 1st April 1865.

I have, &c.,
(Signed) C. WOOD.

*The 13th February* 1865.

*No.* 159 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 403 of the 24th December 1864, is published for general information :—

MILITARY. INDIA OFFICE,
No. 403. *London, 24th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—In my Despatch, dated 8th August 1863, No. 291, paragraph 7, I informed you that I had suggested to the Secretary of State for War, that the Surgeons of the new Brigades of Artillery and new Line Regiments should be supplied from the Indian service as heretofore, until the arrangements for the future organization of the Indian Medical Service shall have been determined upon.

2. I learn from a recent communication from the War Office that the new Line Regiments, with only three exceptions, together with four Brigades of Horse Artillery and nine of Foot serving in India, are reported to be without permanent Surgeons, and that His Royal Highness the Field Marshal Commanding-in-Chief apprehending that serious inconvenience might ensue, has recommended that Surgeons should be at once appointed from the British Establishment to those Brigades and Regiments which are at present unprovided.

3. I have informed Earl de Grey in reply that I considered the time to have arrived when arrangements should be made for appointing Surgeons to the new Brigades of Artillery and new Line Regiments, as vacancies occur in them, from the British Medical Establishment, and I have requested that all present vacancies might be filled up from that establishment without delay.

4. I request that the necessary instructions may be given with a view to carrying into effect this arrangement.

I have, &c.,

(Signed) C. Wood.

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*No.* 160 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 411 of the 24th December 1864, is published for general information and guidance:—

MILITARY. INDIA OFFICE,

No. 411. *London, 24th December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—With a view to assimilating as nearly as possible the system under which Officers of Her Majesty's Indian Forces are subjected to Medical examination with that which obtains in the British Service at home, Her Majesty's Government have, in communication with His Royal Highness the Field Marshal Commanding-in-Chief, arranged for the formation of a Board of Medical Officers, to be composed of a President, being the present Consulting Physician to this Office, and two members, one to be appointed from among the Officers of the Indian Medical Service, who may be on leave in this country, and the other to be an Officer of the British Medical Department, nominated by the Horse Guards.

2. I request that you will cause it to be notified in General Orders that, in future, it will be necessary for all Officers of Her Majesty's Indian Army, or of the several Staff Corps, being on leave in Europe, who may desire to appear before the Medical Board, with a view of obtaining such certificates as the Regulations of the service may require in their several cases, to apply for permission to do so to the Military Department of this Office.

I have, &c.,

(Signed) C. Wood.

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*No.* 161 *of* 1865.—The Government General Order No. 98 of the 25th January 1865, permitting Captain A. H. Prinsep, late 4th European Light Cavalry, to resign his appointment in the Punjab Irregular Force, is cancelled.

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*No.* 162 *of* 1865.—Jemadar Sheik Chote, of the 45th Regiment Native Infantry, (Rattray's Sikhs) is permitted to resign the service from the date of publication of this order at the Head Quarters of the Corps.

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*No.* 163 *of* 1865.—The under-mentioned Officers having completed twenty years' service, six years of which were on permanent Staff employ, to be Majors, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval:—

*Bengal Staff Corps.*

| | |
|---|---|
| Captain W. Paske ... | 11th February 1865. |
| „ P. Maxwell ... | Ditto. |
| „ J. Leven ... | Ditto. |
| „ W. Reveley ... | Ditto. |

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*No* 164 *of* 1865.—The transfer of Lieutenant H. J. Lawrence from the 1st Punjab Infantry to the 5th Goorkha Regiment, as Doing-duty Officer, announced in the Order issued by the Government of the Punjab, No. 29, dated 3rd instant, is confirmed.

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*No.* 165 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Surgeon Major Theodosius Cayley Hutchinson, of the Medical Department. | For 20 months, under the new Regulations. |
| Major Henry Lane, of the late 5th European Light Cavalry, Brigade Major, Rawul Pindee. | For 20 months, under the new Regulations. |

*The* 14*th February* 1865.

*No.* 166 *of* 1865.—His Excellency the Governor General of India in Council is pleased to admit the under-mentioned Native Commissioned and Non-Commissioned Officers and men of Regiments attached to the "Dooar Field Force" to the Order of Merit as specified opposite to their respective names, in consideration of their conspicuous gallantry and personal bravery on the occasion of the capture of the Forts of Dalimkote and Buxa on the 6th December 1864:—

*11th Regiment Native Infantry.*

| | |
|---|---|
| Havildar Hyat Buksh Khan ... | 3rd Class "Order of Merit." |
| Sepoy Kalka Sing ... | |

*18th (The Alipore) Regiment Native Infantry.*

| | |
|---|---|
| Sepoy Gooru Beer ... | 3rd Class "Order of Merit." |

*30th (Punjab) Regiment Native Infantry.*

| | |
|---|---|
| Jemadar Peer Buksh ... | 3rd Class "Order of Merit." |
| Havildar Nizam-ul-Din ... | |
| Sepoy Khwaja Nur ... | 3rd Class "Order of Merit." |
| „ Tawakul ... | |
| „ Sundar ... | |

*3rd Goorkha Regiment.*

| | |
|---|---|
| Sepoy Bukt Bir ... | 3rd Class "Order of Merit." |

*Sebundy Sappers.*

| | |
|---|---|
| Sepoy Siridal ... | 3rd Class "Order of Merit." |
| „ Safeer ... | |

*30th (Punjab) Regiment Native Infantry*

Naik Jamiat Sing is promoted from the 3rd to the 2nd Class of the "Order of Merit."

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*No.* 167 *of* 1865—The under-mentioned Non-Commissioned Officer and Soldiers are admitted to pension as specified opposite to their respective names:—

| | |
|---|---|
| Sergeant Alexander McLeod, of No. 1 Battery Local Artillery, attached to the Arsenal of Fort William. | 2*s.* (two shillings) per diem payable in Europe. |
| Bombardier James Flynn, of No. 2 Battery Bengal Artillery. | 1*s.* (one shilling) per diem payable in Europe. |
| Gunner John Durraugh, of the Artillery Company, European Invalid Battalion. | 1*s.* (one shilling) per diem payable in Europe. |

*No.* 168 *of* 1865.—The under-mentioned Officers of Royal Engineers, having been placed at the disposal of the Military Department for service with the Dooar Field Force, are directed to report themselves to the Adjutant General for the orders of His Excellency the Commander-in-Chief :—

Captain F. S. Stanton.
" R. de Bourbel.
" W. S. Trevor.
Lieutenant C. N. Judge.
" W. J. Heaviside.
" J. Dundas.

*The* 15*th February* 1865.

*No.* 169 *of* 1865.—The services of Assistant Surgeon L. F. Dickson, M. D., are placed at the disposal of the Home Department with effect from the 26th ultimo.

*No.* 170 *of* 1865.—The services of Assistant Surgeon J. Picthall are placed at the disposal of the Government of Bengal.

*No.* 171 *of* 1865.—In accordance with the 10th paragraph of Government General Order No. 370, dated 1st June 1863, the following promotions are made from the dates specified :—

ORDNANCE COMMISSARIAT DEPARTMENT.

*To be Sub-Conductors.*

Offg. Sub-Condr. Francis Fraser, 24th June 1864.
" " Thomas Lally, 25th ditto.

*No.* 172 *of* 1865.—The following Orders issued by the Resident at Hyderabad, are confirmed :—

*No.* 21, *dated* 31*st January* 1865.—Confirming the Regimental Order issued by the Officer Commanding the 3rd Infantry Hyderabad Contingent, dated the 16th January 1865, directing Lieutenant and paid Doing-duty Officer A. F. Dobbs, 3rd Infantry, Hyderabad Contingent, to officiate as Adjutant to the Corps, in addition to his other duties from the above date, in the room of Lieutenant D. W. Laughton, whose services have been placed at the disposal of the Foreign Department.

*No.* 22.—Confirming the Regimental Order issued by the Officer Commanding the 2nd Cavalry Hyderabad Contingent, dated the 13th January 1865, appointing Lieutenant G. B. Farrington, to be paid Doing-duty Officer, temporarily, of the Corps from the above date, in the room of Lieutenant Hemans, whose services have been placed at the disposal of the Foreign Department.

*No.* 173 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Assistant Surgeon Francis Hugh O'Donnel, M. D., of the Medical Department, in medical charge of the Meywar Bheel Corps. | For 2 years, under the new Regulations embarking at Bombay. |

*The* 16*th February* 1865.

*No.* 174 *of* 1865.—The following promotions and alterations of rank are made, subject to Her Majesty's approval :—

PROMOTIONS.

| Corps. | Rank and Name. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| Cadre of the late 2nd E. L. Cavy. | (1) Lieutenant Theodore William Hogg (20th Hussars). | Captain ... | 16th July 1864 | Captain Octavius Hamilton, Staff Corps, promoted in Cadre of 2nd European Light Cavalry. |
| Cadre of the late 9th Native Infantry. | Lieutenant Henry Thomas Oldfield (Captain in the Staff Corps). | Captain ... | 19th Jan. 1865 | Captain (Brevet Major) A. Crawford, retired. |
| Cadre of the late 12th Native Infantry. | Captain Patrick George Scot ... | Major ... | 23rd " " | Major R. R. Adams, Staff Corps, deceased. |
| | Lieutenant Roderick Boyd Mackenzie | Captain ... | | |
| Cadre of the late 31st Native Infantry. | Captain (Brevet Major) Henry Finch | Major ... | 15th " " | Lieutenant Colonel S. R. Tickell, Staff Corps, retired. |
| | Lieutenant Thomas Norris Baker ... | Captain ... | | |
| Cadre of the late 45th Native Infantry. | Lieutenant William Cavendish Bentinck Ryan (Captain in the Staff Corps). | Captain ... | 16th July 1864 | Captain (Brevet Major) A. S. O. Donaldson, promoted. |
| Cadre of the late 46th Native Infantry. | Lieutenant Bruce Neilson Smith (Captain in the Staff Corps). | Captain ... | 24th Dec. " | Captain W. P. Conolly, Staff Corps, deceased. |
| Cadre of the late 48th Native Infantry. | Captain Philip Roe Hockin (Major in the Staff Corps). | Major ... | 10th Oct. " | Major T. Green, retired. |
| | Lieutenant Ralph Ouseley (Captain in the Staff Corps). | Captain ... | | |
| Cadre of the late 74th Native Infantry. | Lieutenant Roberts William Elton... | Captain ... | 24th " " | Captain A. P. Mew, retired. |

(1) The position of this Officer in the 20th Hussars is in no way affected by this promotion.

ALTERATIONS OF RANK.

| Corps. | Rank and Name. | To rank from | In whose room. |
|---|---|---|---|
| Cadre of the late 2nd Euro. Lt. Cavalry. | Captain A. D. Jennings ... | 12th Oct. 1863 | Captain R. W. Clifford, 20th Hussars, (Cadre of late 2nd Light Cavalry,) retired. |
| | Captain Frederick Trench (Lieutenant in 20th Hussars). | 19th April 1864 | Captain J. Cockerell, struck off having exchanged from the 20th Hussars to the 8th Foot. |
| Cadre of the late 45th Native Infantry. | Captain (Brevet Major) Robert Chalmers (Staff Corps). | 24th Dec. 1863 | Captain (Brevet Major) G. C. Blomfield, retired. |
| | Captain William Winson, (Staff Corps) | 14th Jan. 1864 | Captain W. F. Stewart, Staff Corps deceased. |

*No.* 175 *of* 1865.—Assistant Surgeon William Falconer Clark, of the Medical Department, Civil Assistant Surgeon of Tirhoot, was permitted to proceed to Europe on urgent private affairs for six months, without pay, with effect from the 24th May 1864, the date of his departure by the Steam Ship "Rangoon."

*No.* 176 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

Surgeon John Squire, of the Medical Department. } For 3 years, under the old Regulations.

This cancels Government General Order No. 114 of the 27th January 1865, granting this Officer leave on medical certificate to sea, &c., for three months.

*No.* 177 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Lieutenant Colonel Cecil Plowden Trower, of the Bengal Staff Corps, Deputy Judge Advocate General, Presidency Division. } For 20 months.

*No.* 178 *of* 1865.—The under-mentioned Officer having completed twenty-six years' service, eight years of which were on permanent Staff employ, to be Lieutenant Colonel from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

Major E. A. Rowlatt, 14th February 1865.

*No.* 179 *of* 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent Staff employ, to be Captain from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

Lieutenant C. W. Hawes, 13th February 1865.

*No.* 180 *of* 1865.—The under-mentioned Non-Commissioned Officer and Soldier of Her Majesty's service are permitted to reside and draw their pay in India as out-Pensioners of Chelsea Hospital, according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of their pensions :—

Sergeant Robert Brown, of Her Majesty's 104th Foot.

Private Henry O'Donnell, of Her Majesty's 104th Foot.

*No.* 181 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment :—

*Ordnance Department.*

Lieutenant C. Cowie, of the Royal Artillery, to officiate as 3rd Class Commissary of Ordnance, during the absence, on sick leave to Europe, of Lieutenant F. V. Eyre, or until further orders.

*Fort William, the 17th February* 1865.

*No.* 182 *of* 1865.—The following Extract from the *London Gazette* of the 20th December 1864 is published for general information :—

*India Office, 19th December* 1864.

Her Majesty has been pleased to approve the under-mentioned promotions and alterations of rank amongst the Officers of the Staff Corps, and of Her Majesty's Indian Military Forces :—

BENGAL.

The under-mentioned Officer having completed five years' service as Lieutenant Colonel, to be Colonel in the Army, under the operation of Clause 8 of the Royal Warrant of 31st January, 1859 :—

Lieutenant Colonel James Charles Innes, Bengal Infantry. Dated 15th July 1864.

BENGAL STAFF CORPS.

*To be Lieutenant Colonels.*

Major Frederick Peter Layard. Dated 11th March, 1864.

Major Edward John Rickards. Dated 27th March, 1864.

*To be Major.*

Captain Hugh Morris Hodgson. Dated 27th July, 1864.

*To be Captain.*

Lieutenant Frederick Jervis Ripley. Dated 29th July, 1864.

## BENGAL ARMY.

### ALTERATIONS OF RANK.

*General List of Cavalry Officers.*

Lieutenant Silas Adair Swinley, to take rank from 24th November 1863.

*General List of Infantry Officers.*

The under-mentioned Officers to take rank from the dates specified :—

Lieutenant Alfred James Stead, from the 18th September, 1863.
Lieutenant Frank Bird Morris, from the 22nd September, 1863.
Lieutenant Henry Wylie, from the 24th September, 1863.
Lieutenant Roderick Fraser Sandeman, from the 26th September, 1863.
Lieutenant Edward Millett Forbes, from the 26th October, 1863.
Lieutenant Arthur Benjamin Clare, from the 31st October, 1863.
Lieutenant George Campbell Napier, from the 1st November, 1863.
Lieutenant William Hope Meiklejohn, from the 14th November, 1863.
Lieutenant Walter Jones, from the 17th November, 1863.
Lieutenant Henry John Lawrence, from the 1st December, 1863.
Lieutenant William Loch, from the 6th December, 1863.
Lieutenant Richmond Shakespear, from the 10th December, 1863.
Lieutenant Binfield Wemyss, from the 14th December, 1863.
Lieutenant Robert William Napier, from the 15th December, 1863.
Lieutenant Frederick Mills Mallett Harris, from the 17th December, 1863.
Lieutenant Allan Scott Roberts, from the 30th December, 1863.
Lieutenant Ernest Hunter Chicheley Plowden (resigned), from the 1st January, 1864.
Lieutenant Howard Kingscote, from the 2nd January, 1864.

## MEDICAL OFFICERS.

### PROMOTIONS.

*To be Surgeons Major.*

Senior Surgeon John Ransford (retired). Dated 1st October, 1858.
Senior Surgeon James Barber (deceased). Dated 1st October, 1858.
Surgeon Henry John Thornton, (retired). Dated 1st October, 1858.
Surgeon John McClelland (now Officiating Principal Inspector General, Medical Department.) Dated 1st October, 1858.
Surgeon Henry Alexander Bruce, M. D. (now an Inspector General of Hospitals). Dated 1st October, 1858.
Surgeon James Anderson, M. D. (now a Deputy Inspector General of Hospitals). Dated 1st October, 1858.
Surgeon Robert Christie (retired). Dated 1st October, 1858.
Surgeon Thomas Leckie, M. D. (retired). Dated 1st October, 1858.
Surgeon William Brydon, C. B. (retired). Dated 1st October, 1858.
Surgeon John Wood (retired). Dated 1st October, 1858.
Surgeon Alexander Gibbon (retired). Dated 1st October, 1858.
Surgeon John Campbell Brown, C. B. (now a Deputy Inspector General of Hospitals). Dated 1st October, 1858.
Surgeon James Anderson Staig (retired). Dated 1st October, 1858.
Surgeon Alexander Cushine Morison (retired). Dated 1st October, 1858.
Surgeon George Rae (retired). Dated 1st October, 1858.
Surgeon Andrew Paton (deceased). Dated 1st October, 1858.
Surgeon George Charles Wallich, M. D. (retired). Dated 1st October, 1858.
Surgeon Thomas Rogers Strover (retired). Dated 1st October; 1858.
Surgeon William Pitt (retired). Dated 24th January 1859.
Surgeon William Martin (retired). Dated 9th March, 1859.
Surgeon William Hamilton Brown Ross (retired). Dated 13th July, 1859.
Surgeon Theodore Cantor, M. D. (deceased). Dated 12th September, 1859.
Surgeon John Campbell, M. D. and C. B. Dated 22nd December, 1860.
Surgeon Archibald White, M. D. (retired). Dated 30th January, 1861.
Surgeon Edward Brouncker Thring. Dated 24th April, 1861.
Surgeon William Coverdale Beaty Eatwell, M. D. (retired). Dated 11th June, 1861.
Surgeon Richard Henry Oakley. Dated 8th January, 1862.
Surgeon Henry William Tytler (deceased). Dated 23rd February, 1862.
Surgeon James Harrison, M. D. (deceased). Dated 5th April, 1862.
Surgeon George Saunders. Dated 28th July, 1862.
Surgeon Peter Goodall Lay (retired). Dated 9th September, 1862.
Surgeon William Crozier, Fel. U.C. (deceased). Dated 18th September, 1862.
Surgeon Henry Cape, F. R. C. S. Dated 30th December, 1863.
Surgeon Charles Francis Warneford, M. D. Dated 30th December, 1863.
Surgeon Charles Richard Francis, M. B. Dated 16th January, 1864.
Surgeon James Stuart Morrieson, M. D. Dated 27th January, 1864.
Surgeon Alexander Simpson, M. D., M. A., F. R. C. S. E. Dated 28th February, 1864.
Surgeon Henry Bruges Buckle. Dated 18th March, 1864.

*To be Surgeon.*

Assistant-Surgeon Charles Thomas Paske, vice Mountjoy (retired). Dated 8th April, 1864.

The under-mentioned Officers to be Surgeons from 15th June, 1864, to complete the Establishment :—

Assistant-Surgeon William Frederick Blyth Dalzel, M. D.
Assistant-Surgeon (Brevet-Surgeon) Samuel Bowen Partridge, Fel. U. C.
Assistant-Surgeon William Boyne Butt.
Assistant-Surgeon John James Clarke.
Assistant-Surgeon George Olaus Baillie, M. D.

Assistant-Surgeon John Edward Tuson, M. D., F. R. C. S.
Assistant-Surgeon Edward Taylor.
Assistant Surgeon Henry William Spry.
Assistant-Surgeon Alfred James Dale, M. B.
Assistant-Surgeon Arthur Young.
Assistant-Surgeon Benjamin Simpson, M. D., A. B.
Assistant-Surgeon George Hickie Daly, M. D.

ALTERATIONS OF RANK.

The under-mentioned Officers to take rank from the dates specified, viz.:—

Surgeon-Major Hubbersty M. Tweddell (retired), from the 1st October, 1858.
Surgeon-Major Ezra Thomas Downes, from the 1st October, 1858.
Surgeon-Major Archibald Campbell, M. D. (retired), from the 1st October, 1858.
Surgeon-Major Malcolm McNeill Rind (deceased), from the 1st October, 1858.
Surgeon-Major Sir William Brooke O'Shaughnessy, Knight, M. D. and F. R. C. S. (retired), from the 1st October, 1858.
Surgeon-Major George Paton, M. D. from the 1st October, 1858.
Surgeon-Major Herman Read Bond (retired), from the 1st October, 1858.
Surgeon-Major Allan Webb, M. D. (deceased), from the 1st October, 1858.
Surgeon-Major Stanlake Henry Batson (retired), from the 1st October, 1858.
Surgeon-Major John Balfour, (retired), from the 1st October, 1858.
Surgeon-Major Francis Anderson, M. D. (now a Deputy Inspector General of Hospitals), from the 1st October, 1858.
Surgeon-Major Thomas Watkins Wilson, M. D. (retired), from the 1st October, 1858.
Surgeon-Major Richard Charles Guise (retired), from the 1st October, 1858.
Surgeon-Major George Schuyler Cardew (now a Deputy Inspector General of Hospitals), from the 1st October, 1858.
Surgeon-Major James Alexander Dunbar, M. D. (now a Deputy Inspector General of Hospitals), from the 1st October, 1858.
Surgeon-Major Richard William Faithfull (deceased), from the 1st October, 1858.
Surgeon-Major Thomas Allman Wethered (retired), from the 1st October, 1858.
Surgeon-Major James Alexander Guise (now a Deputy Inspector General of Hospitals), from the 1st October, 1858.
Surgeon-Major William Shillito, F. R. C. S. (retired), from the 1st October, 1858.
Surgeon-Major John Macintire (now a Deputy Inspector General of Hospitals), from the 1st October, 1858.
Surgeon-Major William Jameson, from the 1st October, 1858.
Surgeon-Major Charles Gould Andrews (retired), from the 1st October, 1858.
Surgeon-Major Charles Murray Henderson, M. D. (retired), from the 1st November, 1858.
Surgeon-Major Henry Irwin, F. R. C. S. I. (retired), from the 13th January, 1859.
Surgeon-Major Henry Benjamin Hinton, from the 14th January, 1859.
Surgeon-Major Alexander Charles Macrae, M. D. from the 24th January, 1859.
Surgeon-Major Duncan McRae, (now a Deputy Inspector General of Hospitals), from the 24th January, 1859.
Surgeon-Major Robert Bancroft Kinsey, F. R. C. S. (now a Deputy Inspector General of Hospitals), from the 17th February, 1859.
Surgeon-Major Edward Hare (now a Deputy Inspector General of Hospitals), from the 24th February, 1859.
Surgeon-Major George Harper, from the 23rd July, 1859.
Surgeon-Major George Smyth Mann, F. R. C. S., from the 22nd August, 1859.
Surgeon-Major Theodosius Cayley Hutchinson, from the 16th October, 1859.
Surgeon-Major William Shurlock (retired), from the 16th October, 1859.
Surgeon-Major Edward Campbell, from the 14th November, 1859.
Surgeon-Major John Macpherson, M. D., and Fel. U. C., from the 4th December, 1859.
Surgeon-Major Alexander William Crosier, F. R. C. S. (deceased), from the 19th December, 1859.
Surgeon-Major Thomas Thomson, M. D., from the 21st December, 1859.
Surgeon-Major Juxon Henry Jones, from the 3rd January, 1860.
Surgeon-Major James Henry Butler, F. R. C. S., from the 3rd January, 1860.
Surgeon-Major Frederick John Mouat, M. D., F. R. C. S., from the 3rd January, 1860.
Surgeon-Major Alfred Howorth Cheke, from the 3rd January, 1860.
Surgeon-Major Joseph Jowett, from the 20th October, 1860.
Surgeon-Major Alexander Grant (retired), from the 11th November, 1860.
Surgeon-Major Charles Bonnor Chalmers, from the 4th December, 1860.
Surgeon-Major William Keates, from the 25th December, 1860.
Surgeon-Major Richard Whittall (retired), from the 25th December, 1860.
Surgeon-Major Herbert Diaper (deceased), from the 25th December, 1860.
Surgeon-Major John Hilliard, M. D., F. R. C. S. I., from the 8th January, 1861.
Surgeon John Sutherland, from the 4th February, 1861.
Surgeon George Edward Morton, M. D., from the 27th February, 1861.
Surgeon-Major Edward Goodeve, M. B., from the 8th March, 1861.
Surgeon-Major Charles Lindsay Cox,, A. B., F. R. C. S., from the 27th July, 1861.
Surgeon-Major Daniel James O'Callaghan, from the 8th January, 1862.
Surgeon-Major Charles Archer, M. D., from the 10th February, 1862.
Surgeon-Major Samuel Adamson Homan, from the 3rd March, 1862.
Surgeon-Major John Price Kelly, from the 8th June, 1862.
Surgeon-Major Thomas Hastings, F. R. C. S., from the 9th September, 1862.
Surgeon-Major Hugh Martin Macpherson, from the 18th September, 1862.
Surgeon-Major William Craddock, M. D., F. R. C. S., from the 30th January, 1863.

Surgeon-Major John Barton Harrison, M. D., from the 1st February, 1863.
Surgeon-Major Frederick Morrison Clifford, from the 4th April, 1863.
Surgeon-Major Joseph Rose, from the 25th May, 1863.
Surgeon-Major John Fullarton Beatson, B. A. and M. D., from the 16th June, 1863.
Surgeon-Major Charles Hathaway, M. D., from the 10th August, 1863.
Surgeon-Major Henry Nathaniel Elton, from the 9th September, 1863.

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

REVENUE—FORESTS.

No. 4.

*Fort William, the 14th February* 1865.

NOTIFICATIONS.

His Excellency the Governor General in Council is pleased to appoint Mr. C. A. Dobbs to be an Assistant Conservator of Forests on probation, in Coorg, with effect from the date of joining.

ESTABLISHMENT.

No. 44.

Mr. J. W. Robertson, C. E., is appointed to the Department of Public Works in the grade of an Executive Engineer, 4th Class, and posted to the Central Provinces.

No. 45.

*The 16th February* 1865.

Sergeant W. Ross, Overseer, 2nd Grade, Straits Settlements, is permitted to resign his appointment in the Public Works Department, with effect from the 16th January 1865.

No. 46.

Mr. C. Collins is appointed temporarily an Overseer of the 3rd Grade from the 16th January 1865, vice Sergeant Ross, and posted to the Straits Settlements.

No. 47.

Mr. J. Frankford, Temporary Overseer, 3rd Grade, Straits Settlements, is permitted to resign his appointment in the Public Works Department, with effect from the 21st January 1865.

No. 48.

Mr. J. D'Souza is appointed temporarily an Overseer of the 3rd Grade, and posted to the Straits Settlements, vice Mr. J. Frankford, with effect from the 21st January 1865.

No. 49.

Baboo Sath Cowry Mitter, Overseer, 3rd Grade, British Burmah, is granted six months' leave of absence on medical certificate, with effect from the 10th January 1865.

No. 50.

Major A. Stevens, Superintendent, Transport and Supply Department, Upper Godavery Circle, was granted twelve months' leave of absence on medical certificate, to the Neilgherry Hills, with effect from the 16th August last, on which date he made over charge of his duties to Mr. E. D. Gronsilliers, Assistant Engineer.

No. 51.

*The 17th February* 1865.

The under-mentioned Overseers of the 2nd Grade, who were appointed to the Department of Public Works, Mysore, in Notification No. 862 of 1864, joined their appointments on the dates opposite their names :—

| | | |
|---|---|---|
| Corporal R. Green | Sappers and Miners. | 8th August 1864. |
| „ J. Heywood | | 22nd June 1864. |
| Mr. J. E. Rodgers | | 1st July 1864. |
| „ J. A. Minchall | | 6th July 1864. |
| „ R. T. Scaldwell | | 24th September 1864. |

No. 52.

The following promotions are made in the Public Works Department under the Local Administrations, with effect from 1st November 1864 :—

ENGINEER ESTABLISHMENT.

*Executive Engineers, 2nd Class, to be Executive Engineers, 1st Class.*

Captain A. G. Priestley, S.C., Central Provinces.
Captain W. R. Johnson, M. S. C., Mysore.

*Executive Engineers, 3rd Class, to be Executive Engineers, 2nd Class.*

Captain E. J. L. Twynam, S. C, British Burmah.
Lieutenant W. H. Campbell, M. S. C., Mysore.
Mr. J. S. Heyman, Central Provinces, with effect from the 1st May 1864.

*Executive Engineers, 4th Class, to be Executive Engineers, 3rd Class.*

Major G. R. Phillips, M. S. C., Hyderabad.
Mr. J. Fennessy *(Temporary Executive Engineer, 3rd Class)* British Burmah, *permanent promotion.*

*Special Assistant Engineer, to be Executive Engineer, 4th Class.*

Captain A. Francis, M. S. C., Rajpootana.

*Assistant Engineers, 1st Class, to be Executive Engineers, 4th Class.*

Lieutenant P. Montgomerie, R. E., Upper Godavery Works.
Mr. E. Hyde, British Burmah.
Mr. W. D. Bruce, Oudh.

*Assistant Engineer, 1st Class, to be Special Assistant Engineer.*

Mr. R. Tyndall, Central Provinces.

*Assistant Engineers, 2nd Class, to be Assistant Engineers, 1st Class.*

Mr. E. V. Vernon, British Burmah.
Mr. E. B. Medley, Rajpootana Circle.
Lieutenant H. Y. Murray, General List, Cavalry, Oudh.

UPPER SUBORDINATE ESTABLISHMENT.

*Sub-Engineer, 3rd Grade, to be Sub-Engineer, 2nd Grade.*

Assistant Commissary W. Smallman, Central Provinces.

*Supervisor, 1st Grade, to be Sub-Engineer, 3rd Grade.*

Conductor G. Cowper, Rajpootana Circle.

*Supervisors, 2nd Grade, to be Supervisors, 1st Grade.*

Sub-Conductor C. Montague, Central Provinces.
Sergeant R. J. Duffy, Oudh.

*Overseers, 1st Grade, to be Supervisors, 2nd Grade,*

Sergeant J. Cooney, Rajpootana Circle.
Sergeant G. Wilkinson, Central Provinces.
Mr. J. Kemp, Mysore.
Luxmon Baggajee, Rajpootana Circle.

*Overseers, 2nd Grade, to be Overseers, 1st Grade.*

Sergeant M. Fitzpatrick, Oudh.
Artificer T. Yates, Central Provinces.
Dhoondoo Anunt, Rajpootana Circle.
Dadoba Tucca Ram, Rajpootana Circle.
Tek Nath Ram Chunder, Rajpootana Circle.

No. 53.

Mr. J. H. Wilson, Assistant Engineer, 1st Class, attached to the Central Provinces, to be Special Assistant Engineer, with effect from the 5th December 1864, vice Mr. W. Lloyd, resigned.

E. C. S. WILLIAMS, *Captain*, R. E.
*Under Secy. to the Govt. of India.*

## HIGH COURT.

*Leave granted by the Honorable the Chief Justice under para. 3 of the Resolution of the Home Department, dated 6th April 1863.*

Mr. R. Belchambers, Registrar of the High Court of Judicature at Fort William in Bengal in its original jurisdiction, is allowed twenty months' medical leave to Europe, from the 3rd of March 1865, together with 8 days' preparatory leave under paras. 11 and 18 of the New Uncovenanted Leave Rules.

*February* 17, 1865.

## ADVERTISEMENTS.

### NOTICE.

Sealed Tenders will be received by the Agent for Gunpowder at Ishapore up to 10 A. M. of the 1st May 1865, and opened at noon the following day, in the presence of attending parties, for the supply of (40,000) Forty thousaud maunds of *Peeled* Stalk of the Urhur Dhall wood, the wood to be of the last crop, sound, and free from weevils. The entire supply to be rendered at the Gunpowder Works in three instalments, viz :—

15,000 maunds on the 1st March 1866.
15,000 „ „ 1st March 1867.
10,000 „ „ 1st March 1868.

Security Two thousand five hundred Rs. One hundred Rs. (returnable) to be sent with each Tender.

Parties are requested not to enclose Cash for Security in their Tenders but to send it by the hands of the persons who are to be present at the opening of the the tenders.

No tender will be opened unless such person appear.

G. E. VOYLE, *Lieut.-Col.*, R. A.,
*Agent for Gunpowder.*

ISHAPORE POWDER WORKS,
*6th February* 1865.

## Orders by the Vice-Chancellor and Syndicate of the Calcutta University.

The under-mentioned students have passed the honor examination in Arts :—

IN SANSCRIT.

*First Division.*

Nilambur Mookerjee ... Sanscrit College.

IN HEBREW.

*First Division.*

H. Blochmann.

IN HISTORY.

*Second Division.*

*In order of Merit.*

Money Lall Sandel ... Doveton College.
Chunder Narain Singh ... Presidency College.
Mohender Nath Mitter ... Do. do.

IN MENTAL AND MORAL PHILOSOPHY.

*Third Division.*

Joygobindo Shome ... Calcutta Free Church Institution.

IN MATHEMATICS.

*First Division.*

Gooroo Doss Banerjee ... Presidency College.

*Second Division.*

Luckhy Narain Doss ... Presidency College.

*Third Division.*

Otool Churn Mullick ... Presidency College.

IN NATURAL HISTORY AND PHYSICAL SCIENCE.

*First Division.*

Prosonno Chunder Roy ... Presidency College.

The under-mentioned student has passed the examination in Natural History and Physical Science for the Degree of Master of Arts :—

Peary Mohun Mookerjee ... Presidency College.

J. SUTCLIFFE, M. A.,
*Offg. Registrar.*

*The 16th February* 1865.

## NOTIFICATION.

The districts of East and West Berar having recently been sub-divided, the following Revised List of Districts comprised in the Hyderabad Assigned Districts is published for the guidance of Treasury Officers, with an intimation that Bills and Remittance Receipts cannot be drawn on the Deputy Commissioners of Maiker and Woon, who have no separate Treasuries attached to their respective Offices :—

*List of Berar Districts.*

| Name. | Designation of Officers. |
|---|---|
| Akolah District<br>Oomrawuttee ditto<br>Maiker ditto<br>Woon ditto | Deputy Commissioner. |

J. ROSE,
*Head Assistant in Charge*
*Depy. Audr. and Acctt.*
*Genl.'s Office, Hyderabad.*

OFFICE OF DEPY. AUDR. AND ACCTT. GENL., HYDERABAD,
*Bolarum, 2nd February* 1865.

## COMMISSARIAT NOTIFICATION.

I. Under instructions from Government, the Tannery at Hoonsoor, near Mysore, with all fixtures, is to be disposed of, and notice is hereby given that tenders for the same will be received by the Deputy Commissary General at his Office at Madras, up to 12 o'clock noon of Tuesday, the 21st March 1865.

II. The Tannery stands in an enclosed yard about 626 feet long by 473 feet broad, and is situated on the "Lutchmen Treert" River, has an ample supply of water, and comprises—

"Bark and Raw Hide store-rooms,
"Lime and Bark Pits,
"Upper-storied Currier's shop,
"Buff Mill,
"Work shop,
"Store Godowns for finished goods,"

with all the other requisite buildings for a business capable of turning out 2,000 Hides a month in the best style.

III. The Tannery will be made over to the successful competitor on the 1st of July 1865, on his complying with conditions hereinafter mentioned.

IV. There is a large quantity of stock, raw and in process of tanning, on hand, which the successful competitor for the Tannery will have the option of taking at a valuation, composed of Australian, Cape, and Country Bullock, Buffaloe, Sheep, and Goat Hides.

V. One-third of the price to be paid down in cash on the acceptance of the successful tenders being declared, and the balance on or before the 1st July 1865.

VI. Should the successful competitor for the Tannery take the stock at a valuation, transfer of the whole property can be made at once on payment of balance of price.

VII. Failing the due fulfilment of this engagement, the purchaser will forfeit the aforesaid third of the purchase money.

VIII. Any further information required can be obtained on application at the Commissary General's Office, or to the Deputy Assistant Commissary General at Hoonsoor, who will show the Tannery.

IX. Intending purchasers must satisfy themselves of the nature and description of the Buildings and Articles. This Department will not be answerable for any errors of description.

By order,

E. E. MILLER, *Lieut. Colonel,*
*Deputy Commissary General.*

COMMY. GENERAL'S OFFICE,
*Madras, 21st January* 1865.

## NOTIFICATION.

Whereas much inconvenience and difficulty is experienced in the Loan and Interest Departments of this Office in tracing endorsements and receipts for interest written across the reverse of Government Promissory Notes presented for renewal or interest, notice is hereby given, with the sanction of Government, that in future cross receipts for interest will not be accepted, or further interest paid upon any note the reverse of which is filled up. The holders of notes so filled up can obtain new notes on application to the Loan Office, and on payment of the usual fees.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

*Just Published*

VOLUME II

OF

SELECTIONS FROM CALCUTTA GAZETTES

OF THE YEARS

1789, 90, 91, 92, 93, 94, 95, 96, and 97.

SHOWING THE POLITICAL AND SOCIAL CONDITION OF THE ENGLISH IN INDIA

SEVENTY YEARS AGO.

BY W. S. SETON-KARR, C. S.,

JUDGE OF THE HIGH COURT OF JUDICATURE

AND

PRESIDENT OF THE RECORD COMMISSION.

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*Military Orphan Press.*

## TO TIMBER MERCHANTS AND CONTRACTORS, &c.

*Oudh Forest Department.*

A sale of Sâl logs (about 100,000 cubic feet) cut in 1862-63, will take place at noon on the 2nd of March 1865, at Ghuttea Ghaut, on the Sarda, and afterwards at Dhunara Ghaut, two miles further down stream, near the towns of Madho Sunda, Sherepore, and Poorunpore, in the Shajehanpore district; upset price 8 annas per cubic foot. The timber will be sold in both large and small quantities. The timber can be floated to Byram Ghaut for 3 annas a cubic foot, or, after land carriage of some twenty miles, can be floated down the Kumhout Nuddee to the Ganges, then to Cawnpore, Allahabad, Benares, &c. Estimated cost from Ghauts to Cawnpore, 4½ annas per cubic foot. Tenders for quantities over 1,000 cubic feet, at 8 annas per cubic foot, for cash payment, will be accepted up to date of sale. Terms of sale can be had on application to the undersigned.

E. S. WOOD, *Captain,*
*Offg. Conservr., Oudh Forests.*

CAMP, KYREEGURH FOREST,
*viâ* POORUNPORE,
ZILLAH SHAJEHANPORE.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 7.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, FEBRUARY 25, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., cap. 67.**

The Council met at Government House on Friday, the 17th February 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble J. N. Bullen.

The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.

The Hon'ble Rája Sáhib Dyál Bahádur.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhiraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

CALCUTTA GREAT JAIL BILL.

His Honour the Lieutenant Governor of Bengal introduced the Bill to remove the Great Jail of Calcutta from the control of the Sheriff, and transfer it to that of the Government of Bengal, and moved that it be referred to a Select Committee, with instructions to report in two weeks. He said that some time ago, when he asked for leave to introduce the Bill, he had explained to the Council in a few words the reason which had led to its introduction, and the objects which it was intended to effect. It was, therefore, unnecessary to trouble the Council with any further observations.

The Motion was put and agreed to.

ADMINISTRATOR GENERAL'S BILL, 1865.

The Hon'ble MR. MAINE applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill to exempt the estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras, or Bombay, from the operation of the twenty-sixth Section of Act VIII of 1855. He said that he had no hesitation in asking His Excellency to suspend the rules in reference to this Bill. It was a formal Bill intended to make the law in this country consistent with the law in England, which of course would, in the present case, override the former.

The President declared the Rules suspended.

The Hon'ble MR. MAINE then introduced the Bill and moved that it be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill be passed.

The Motion was put and agreed to.

MARRIAGE ACT AMENDMENT BILL.

The Hon'ble MR. ANDERSON presented the Report of the Select Committee on the Bill to pro-

vide for the solemnization of Marriages in India, of persons professing the Christian Religion.

The Hon'ble Mr. Anderson also applied to His Excellency the President to suspend the Rules for the Conduct of Business. He said that he asked His Excellency to do this because the Roman Catholic community felt great anxiety that the Bill should be passed. It would have been passed a month ago had not the Select Committee received a telegram from the Government of Madras, requesting that the Bill might not become law until after the arrival of some suggestions regarding the existing Act, XXV of 1864. Those suggestions had since been received and fully considered.

The President declared the Rules suspended.

The Hon'ble Mr. Anderson then moved that the Report be taken into consideration. He said that in performing this duty, it would not be necessary for him to occupy the attention of the Council for more than a few moments. He was happy to say that he had reason to think that the amended Bill had met with the entire satisfaction of the Roman Catholic community, at whose instance the Bill had been introduced, and had therefore attained its principal object. The Select Committee had also proposed to extend Part V of the original Act to all Native Christians, instead of confining it as before only to Converts to Christianity.

The Committee had also proposed to repeal the old Act, XXV of 1864, and to incorporate its provisions with those of the amended Bill. In doing this, it had two objects in view; first and principally, for convenience and facility of reference—and in this he would remark the Committee had followed the course recommended by the Secretary of State—and next, because, by taking the old Act off the Statute Book, it would remove all cause of irritation that might be felt by the Roman Catholic community on the ground that their interests had not originally received proper consideration from the Council.

He had stated that the Select Committee had received a telegram from the Madras Government, intimating that they had some suggestions to make with reference to the Bill. The Committee had since received this communication, which, he must say, was a most clear and able paper. Many of the suggestions which it contained had been anticipated by the Committee: others had been adopted in the Bill. With regard to others, the Committee after full discussion had not deemed it expedient to introduce them into the Bill, although they were proper suggestions and well worthy of consideration. The suggestions of the Madras Government which had been adopted were these—first, that licenses granted to Ministers to solemnize marriages should be rendered revocable at the discretion of the Local Governments; and secondly, and principally, that the law in this country should be assimilated to the law of England. This latter suggestion had been effected by slightly altering the text of the old Act which they had incorporated into the new one, to the effect that those marriages alone should be null and void which were performed by persons other than those authorized under this Bill to perform them. With these observations, he begged to move that the report of the Select Committee be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Harington, with the permission of His Excellency the President, moved the following amendment: That the reference in the 64th Section to "The High Courts' Criminal Procedure Amendment Act, 1865," which had not yet been passed, should be omitted, and that the last sentence of the Section should stand thus:—"In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal procedure of the High Court may from time to tim be regulated."

The Motion was put and agreed to.

The Hon'ble Mr. Anderson then moved that the Bill as amended be passed.

The Motion was put and agreed to.

### Act XXXI of 1860, Continuance Bill.

The Hon'ble Mr. Maine presented the Report of the Select Committee on the Bill to continue Act XXXI of 1860.

The Hon'ble Mr. Maine also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The President declared the Rules suspended.

The Hon'ble Mr. Maine then moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill be passed.

The Motion was put and agreed to.

### Succession and Inheritance (Parsees') Bill.

The Hon'ble Mr. Anderson in moving for leave to introduce a Bill to define and amend the Law relating to Succession and Inheritance among the Parsees said:—"I have the honor, Sir, to move for leave to introduce a Bill to define and amend the law relative to inheritance and succession among the Parsees.

"In performing this duty, I am seeking to acquit myself of the obligation imposed upon me of submitting to the Council the requirements of the Parsees as exhibited in their Draft Code. I have already introduced a Bill relative to Marriage and Divorce, and I now ask leave to introduce one relative to Inheritance and Succession.

"I trust that I shall be able to satisfy the Council that the change which the proposed Bill contemplates is not one of an extensive character. The principal provision will be the reduction of the share of female relative, in succession to intestate property.

"I should mention that in 1836, the Parsees were compelled to petition the Government of India to be relieved from the operation of the English law of primogeniture in relation to succession to immoveable property. When the Recorder's Court (afterwards the Supreme Court) was established in Bombay, its Charter was framed in ac-

cordance with that of the Calcutta Court. Due provision was at the time made, that succession to the property of Hindús and Mahommedans should be regulated according to the law and usages of persons professing those forms of religious faith. But the fact was overlooked, that there was in Western India, and especially in Bombay, a race which was neither Christian, Hindú, nor Muhammadan. The inconvenience arising from this omission was not felt for some years, as family disputes were usually arranged among the Parsees themselves; but when such differences became the subject of suits in the Supreme Court, it was then ascertained that Parsees being neither Hindús nor Muhammadans, succession by them to freehold property in the Island of Bombay must be regulated by the English law of primogeniture. This being utterly opposed to their feelings and usages, they applied to the Supreme Government for relief, and Government in its legislative capacity, after due enquiry, passed an Act (IX of 1837) which provided 'that all immoveable property situate within the jurisdiction of any of the Courts established by His Majesty's Charter shall, as far as regards the transmission of such property on the death and intestacy of any Parsee having a beneficial interest in the same, or by the last Will of any such Parsee, be taken to be and to have been of the nature of chattels real and not of freehold.'

"I mention these facts because they indicate the difficulties with which Parsees have had to contend, and prove that the Government of India has not declined on a former occasion to afford them relief. The Parsees now seek to be exempted from what will probably soon be the law of British India as to the right of females to share equally with males in succession to intestate property. The Council is aware that the first Chapter of the Indian Civil Code, the Chapter which relates to inheritance and succession, is now under the consideration of the Select Committee. It will be my object to exempt the Parsees from the operation of a few Sections of that measure, but I cannot at present make the provisions necessary for this purpose in the proposed Bill, because that Chapter has not yet become law. I, therefore, for the sake of saving time, ask leave to introduce the Bill, and if permitted to do so, I shall hereafter move in Committee that the Parsees be relieved from the operation of certain Sections in the Civil Code relative to intestate property, the law as to succession to such property being regulated in their case by the measure now in contemplation.

"I ought to explain, more for the information of the Parsees themselves than for that of this Council, that the course thus sketched out will, I believe, be far more conducive to their best interests, than the enactment of the Code which they have prepared, in its integrity. They have sought in that Code to regulate bequests by will, as well as to provide for succession to intestate property. It is my duty plainly to state my opinion that this part of their Code would not work. It is hopeless to expect that, if the highest legal intellects have found it impossible to deal with the subject of Wills in less than some three hundred Sections, such a subject can be disposed of in three or four Sections of the Parsee Code. There is nothing in the part of the Indian Civil Code relating to Wills which is inconsistent with Parsee feelings and usages, except so far that Parsees are generally averse from all testamentary arrangements. I would therefore leave them subject to the general provisions of the admirable Civil Code which has recently been introduced, and only exempt them from a few particular Sections relative to intestate property which are opposed to their social and religious usuages.

The Parsee scheme of distribution of intestate property is briefly this :—

To the widow twice as much as each daughter :

To each son twice as much as the widow.

For example, if there be a widow, two sons and two daughters, the property would be divided into twelve equal shares, of which each son would take four, the widow two, and each daughter one.

I should here mention that a difference of opinion exists upon this point between the Parsees of Bombay and those of the Mofussil. The latter would give :—

Twelve annas in the Rupee to the sons :

Two annas in the Rupee to the widow; and

Two annas in the Rupee to the daughters.

Some, however, would give a little more to the females. Sir Joseph Arnould's Commission, after taking a great deal of evidence, reported in favour of the scale proposed in the Bill I ask leave to introduce, which is that recommended by the Parsees of Bombay. I do not consider that this difference of opinion should suggest any difficulty to the Council. Apart from the undoubted facts that the Parsees of Bombay constitute the great numerical majority of the race, and that they, in a still more marked degree, represent the wealth and intelligence of the community, I would point out that the question practically before the Council will be whether the Parsees shall be exempted from the operation of a law which gives females an equal share with males in succession to intestate property. The scale proposed in the Bill therefore presents a less divergence from the standard of the Civil Code than that which is advocated by the Parsees of the Mofussil. I shall have no hesitation, then, in recommending it for the sanction of the Council, and I should mention that the Parsees of the Mofussil have most emphatically stated that they altogether prefer the distribution proposed in the Bill to that which is laid down by the English law.

"The only other provision in the Bill of any importance is, that a table of proximity of relationship has been framed in according with Parsee usages, which differs in some respects from that proposed in the Indian Civil Code.

"To prevent any possible misapprehension, I should state that the present measure has been prepared by the Parsees themselves. It will require some verbal modifications to render its operation complete and effective, but my object at present is to show that I have not come forward to advocate what I may deem on theoretical grounds the interests of the Parsees, but that I am merely submitting to the Council a measure proposed by the Parsees themselves, and which they have now for several years urged on the attention of the Government of India and of Her Majesty's Secretary of State.

"I have the honor, Sir, to move for leave to introduce a Bill to define and amend the law relative to inheritance and succession among the Parsees."

The Motion was put and agreed to.

HIGH COURTS CRIMINAL JURISDICTION BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to amend the Procedure of the High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than their usual place of sitting. He said that this Bill, of which one of the objects was to dispense with the services of the Grand Jury, provided, as originally framed, for the extension to the Mofussil of the system now in force in the Presidency Towns, under which a great part of the Criminal Procedure of the High Court was regulated by Rules of Court—Rules made under an Act of Parliament. But the Secretary of State and the majority of the Judges of the High Court had given their opinion, that advantage might usefully be taken of this opportunity to settle many of these matters in the Mofussil by express legislation. He did not suppose that the amendments suggested by the Committee differed widely from the Rules which would have been made if the Bill had not been altered. But as they constituted a considerable addition to the length of the measure, he thought they should be seen by the Public before the Bill was passed.

The Hon'ble MR. MAINE then moved that the Report and Bill as amended in Committee be published for three weeks in the *Gazette of India*.

The Motion was put and agreed to.

REGISTRATION ACT AMENDMENT BILL.

The Hon'ble MR. TAYLOR applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The President declared the Rules suspended.

The Hon'ble MR. TAYLOR then introduced the Bill to amend Act XVI of 1864 (to provide for the Registration of Assurances). He said that in consequence of a communication which had just been received from the North-West Provinces, and also in consequence of several suggestions having come in from other quarters, he thought it desirable to postpone for a short time the passing of the Bill. Instead, therefore, of moving that the Bill be passed, he would, with His Excellency's permission, move that it be referred to a Select Committee with instructions to report in one week.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill to remove the Great Jail of Calcutta from the control of the Sheriff, and transfer it to that of the Government of Bengal—His Honour the Lieutenant Governor, and the Hon'ble Messrs. Harington, Maine, Bullen, Taylor, and Cowie.

On the Bill to amend Act XVI of 1864 (to provide for the Registration of Assurances)—the Hon'ble Messrs. Harington, Maine, Taylor, and Muir.

The Council then adjourned.

WHITLEY STOKES,
*Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

CALCUTTA,
*The 17th February* 1865.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 8.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 25, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th February 1865, and is hereby promulgated for general information :—

Act No. II of 1865.

*An Act to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere.*

Preamble.

Whereas it is expedient to provide for the better maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere; It is enacted as follows :—

"Number."

**1.** In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in districts affected by this Act may assess and collect house tax.

**2.** The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of the District acting under the orders of the local Government to determine what buildings shall be held to be a separate house for the purposes of this Act.

Assessments to be due annually with first instalment of rent.

**3.** The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause 3, Section 23, Act X of 1859.

Regulation IX of 1833, Sections 12 to 15 to apply.

**4.** Sections 12, 13, 14, and 15 of Regulation IX of 1833, shall be applicable to assessments under this Act.

Persons assessed may petition against assessment, and Collector may abate or remit same.

**5.** Any person assessed under Section 2 of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Collector may assess yearly contribution for purposes of this Act.

**6.** It shall be lawful for the Collector or for any Officer making settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor for the purposes of this Act, not exceeding the aggregate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or percentage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

**7.** The sum so assessed shall, subject to the sanction of the local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana Estates.

**8.** The provisions of this Act shall be applicable to Maafee and Nuzerana Estates. Besides the assessments made by the Collector under Section 6 of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

**9.** The local Government may determine by what instalments and at what times, the assessments payable under Sections 6 and 8 shall be paid. Any arrear of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessment.

**10.** Assessments realized under this Act shall be appropriated, under the orders of the local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the local Government for sanatory purposes or any other purpose of general improvement within the District in which the amount is collected.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

**11.** Every proprietor or other person in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on his Estate; and the person so nominated shall after due enquiry be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Jail for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Village Watchmen to perform duties of Policemen under Act V of 1861, in addition to his other duties.

**12.** Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act and guilty of neglect or disobedience, as the case may be.

Power to Government of North-Western Provinces to extend this Act.

**13.** The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX of 1856, or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Governments of India and of the Punjab to extend this Act.

**14.** Subject to the proviso contained in the last preceding Section, the Governor-General of India in Council may extend the provisions of this Act to any Province under the immediate administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his government.

Repeal of inconsistent Rules.

**15.** From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1865, and is hereby promulgated for general information :—

## ACT No. III OF 1865.

*An Act relating to the rights and liabilities of Common Carriers.*

Preamble.

Whereas it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows :—

Short Title.

**1.** This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place by land or inland navigation for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 rupees in value, unless delivered as such.

**3.** No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property payment may be required at rates fixed by Carrier.

**4.** Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix: Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be

Proviso.

exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

**5.** In case of the loss of or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

Carriers, with certain exceptions, may limit liability by special contract.

**6.** The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract.

In what case owner of railroad or tramroad answerable for loss or damage.

**7.** The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

**8.** Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of any of his agents or servants.

Plaintiff's in suits against Common Carriers for loss, damage or non-delivery not required to prove negligence or criminal act.

**9.** In any suit brought against a Common Carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Saving of provisions of Sections 9, 10 and 11 of Act XVIII of 1854.

**10.** Nothing in this Act shall affect the provisions contained in the ninth, tenth and eleventh Sections of Act No. XVIII of 1854 *(relating to Railways in India)*.

## SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hundís.
Currency Notes of the Government of India or Notes of any Banks, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints and Works of Art.
Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information :—

## ACT No. IV OF 1865.

*An Act to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras or Bombay, from the operation of the twenty-sixth Section of Act No. VIII of* 1855.

Preamble.

WHEREAS under or by virtue of the twenty-sixth Section of Act No. VIII of 1855 *(to amend the Law relating to the Office and Duties of Administrator-General)*, the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration; And whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an Officer or Soldier dying on service exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount

remaining in his hands after payment by him of preferential charges, as the case may be; It is enacted as follows:—

Interpretation Clause. "Officer."

**1.** In this Act—

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

**2.** From and after the passing of this Act, the twenty-sixth Section of Act No. VIII of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

Short Title.

**3.** This Act shall be called "The Administrator General's Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd February 1865, and is hereby promulgated for general information:—

## ACT No. V OF 1865.

*An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.*

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

*Preliminary.*

Short Title.

**1.** This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

**2.** This Act shall extend to all the territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

**3.** From and after the commencement of this Act, Act No. XXV of 1864 is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation Clause.

**4.** In this Act, unless there is something repugnant in the subject or context—

"Church of England." "Anglican."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Minor."

"Minor" means a person who has not completed the age of twenty-one years.

"Native Christians."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Section."

"Section" means a Section of this Act.

"Month" and "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

### PART I.

*As to the persons by whom marriage may be solemnized.*

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

**5.** From and after the commencement of this Act no marriage between persons one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

**6.** Marriages may be solemnized in India—

(1.) By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which such person is a Minister.

(2.) By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

(3.) By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 *(for giving effect to the provisions of an Act of Parliament*

*passed in the 15th year of the reign of Her present Majesty entituled an Act for Marriages in India)* of the Governor-General of India in Council.

(4.) By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

(5.) By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

**7.** From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 *(for the solemnization of marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

**8.** From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

**9.** From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections, shall be null and void.

Marriages solemnized before 1st May 1865 by certain persons to be deemed valid.

**10.** All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

## PART II.

*As to the mode of solemnizing Marriages under this Act.*

Notice of intended marriage.

**11.** In every case of intended marriage between persons one or both of whom shall profess the Christian Religion, otherwise than—

1.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852: or

2.—By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies and customs of the Church to which he belongs: or

3.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies and customs of that Church: or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Proviso.

Publication of such notice.

**12.** The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Notice of intended marriage in private dwelling.

**13.** If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons intending marriage is a minor.

**14.** When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

**15.** The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

**16.** If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Issue of certificate of notice given and declaration made.

**17.** Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso.

Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

In case of minority certificate not to issue until fourteen days after receipt of notice.

**18.** When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

**19.** Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

**20.** The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

**21.** Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

**22.** If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

**23.** When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

**24.** The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

**25.** After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

**26.** Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I of this Act.

**27.** Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

*As to the time for solemnizing Marriages.*

Hours between which marriages to be solemnized.

**28.** Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction. Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

Proviso.

PART IV.

*As to the Registration of Marriages in India.*

Marriages with certain exceptions to be registered as hereinafter prescribed.

**29.** All marriages solemnized in India from and after the commencement of this Act between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

Registration of marriages solemnized by Clergymen of the Church of England.

**30.** Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly Returns to Archdeaconry.

**31.** Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such Quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

**32.** Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

**33.** Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England, of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

**34.** After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

**35.** The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

**36.** The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Regis-

trars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

**37.** Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

**38.** The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of Marriages solemnized under Part V of this Act.

**39.** The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said district, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said district; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

**40.** The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths and Marriages.

Correction of errors.

**41.** Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

**42.** Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year, the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

**43.** All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

**44.** Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

**45.** Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio*.

**46.** Every Marriage Registrar hereafter appointed under the provisions of Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

*As to the Marriage of Native Christians.*

Power to license persons to grant certificates of Marriage between Native Christians.

**47.** And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

**48.** It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

(3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

**49.** When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid.

**50.** All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Register Book to be kept.

**51.** A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches to be allowed in the Register Book.

**52.** Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V not to apply to Roman Catholics.

**53.** This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

PART VI.

*As to Penalties.*

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

**54.** Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

**55.** Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person not duly authorized, solemnizing a marriage.

**56.** Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and

wilfully solemnize a marriage between persons one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts).*

Punishment for solemnizing a marriage otherwise than between six A. M. and seven P. M. or without witnesses.

**57.** Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

**58.** The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Punishment for solemnizing marriage when either party is a minor within a certain time after notice.

**59.** Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage, when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

**60.** Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome solemnizing marriages without publication of notices, &c.

**61.** Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act, by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

**62.** Whoever not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate, intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

**63.** Whoever shall willfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall willfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

**64.** Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil Jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Jurisdiction to try persons for offences punishable under this Act.

**65.** Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Code of Criminal Procedure applicable to investigations and committals under this Act.

**66.** The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

SCHEDULE A—(See Section 11.)

*Notice of Marriage.*

To *the Reverend John Brown*, a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

| Name. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(Signed) *James Smith.*

(The *Italics* in this Schedule are to be filled up as the case may be and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE B—(See Section 24.)

*Registrar's Certificate.*

I, *the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal*, do hereby certify, that on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say),

| Names. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

and that the declaration required by Section 19 of "The Indian Marriage Act, 1865, has been duly made by the said (*James Smith*).

Date of notice entered *sixth July* 1865.
Date of certificate given *twentieth July* 1865. } The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *Twentieth* day of *July one thousand eight hundred and sixty-five,*

(Signed) *John Brown,*
*Minister of the Free Church of Scotland.*

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE C.—(See Section 30.)

*Form of Register of Marriages.*

Quarterly Returns
of
MARRIAGES
for
The Archdeaconry of ... { *Calcutta,* *Madras,* *Bombay,*

I Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } as made and transmitted to me for the Quarter commencing the *First* day of *October* ending the *Thirty-first* day of *December,* in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

*Signature of Registrar.*

Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay.*

MARRIAGES solemnized at { *Allahabad,* *Barrackpore,* *Bareilly,* *Calcutta, &c., &c.*

| When married. | | | Names of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of marriage. | Father's Name and Surname. | By Banns or License. | Signatures of the Parties. | Signatures of two or more Witnesses present. | Signature by whom married. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year. | Month. | Day. | Christian. | Surname. | | | | | | | | | |
| | | | | | | | | | | | | | |

SCHEDULE D.—(See Section 34.)

MARRIAGE REGISTER BOOK.

| No. | When Married. Day. | Month. | Year. | Name of Parties. Christian. | Surname. | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra... | Wm. White. |
| | | | | Martha .. | Duncan... | 17 years | Spinster . | ..... | Agra... | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan,* } In the presence of us { *John Smith.* / *John Green.* }

CERTIFICATE OF MARRIAGE.

| No. | When Married. Day. | Month. | Year. | Name of Parties. Christian. | Surname. | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra... | Wm. White. |
| | | | | Martha .. | Duncan... | 17 years | Spinster.. | ..... | Agra... | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan,* } In the presence of us { *John Smith.* / *John Green.* }

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information :—

ACT No. VI OF 1865.

*An Act to continue Act No. XXXI of* 1860.

Preamble.

WHEREAS Act No. XXXI of 1860 *(relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases)*, is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows :—

Act XXXI of 1860 continued.

**1.** Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

**2.** This Act may be cited as "The Arms' Act Continuance Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India, Home Dept. (Legislative).*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VII OF 1865.

*An Act to give effect to rules for the management and preservation of Government Forests.*

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows :—

Interpretation clause.

**1.** In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood, or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor-General in Council to exercise the powers of a Local Government under this Act.

Governor-General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

**2.** The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

**3.** For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

**4.** Rules made in pursuance of this Act may provide for the following matters:—

First.—The preservation of all growing trees, shrubs, and plants within Government Forests or of certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephant's tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohi-

biting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

**5.** In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

**6.** Such Rules when confirmed by the Governor-General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules.

**7.** All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

**8.** Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Procedure in case of arrest.

**9.** Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

**10.** Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

**11.** When any timber or other property shall be seized as liable to confiscation under this Act any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

**12.** Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

**13.** All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

**14.** When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

**15.** When any confiscation or penalty shall be adjudged under this Act, the local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

**16.** No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

**17.** No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Period within which charges to be brought.

**18.** This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Extent of Act.

**19.** This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests' Act, 1865."

Commencement of Act.
Short Title.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VIII OF 1865.

*An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original Civil jurisdiction.*

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows :—

Preamble.

**1.** All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil jurisdiction, and the detention and imprisonment of all persons so arrested shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

**2.** No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention or imprisonment, as referred to in the preceding Section, and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the Code of Civil Procedure or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

No suit to lie against the Sheriff for any such illegal arrest, &c.

**3.** The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the first day of March 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

Extension of the Act to the High Courts of Madras and Bombay

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 3rd February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 3 of 1865.

*A Bill to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.*

Whereas, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and, after that office became vacant, in the Chief Commissioner; and whereas since the introduction of the said Code of Civil Procedure doubts have arisen whether such suits are cognizable by the ordinary Civil Courts in the first instance, and by the Judicial Commissioner on appeal, or by the Revenue Courts in the first instance, and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; and whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows :—

Preamble.

**1.** In the construction of this Act, except when the contrary appears by the context—

Interpretation Clause.

Words in the singular number shall include the plural, words in the plural number shall include the singular, and words denoting the masculine gender shall include the feminine.

Number.
Gender

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Courts of Revenue."

**2.** In any District in the Province of Oude in which a Settlement of the land revenue is being made, all suits of whatever description arising in such District relating to the title or succession to land, or to the possession of land, or to any right in respect of any land shall, during the period of such Settlement and for such further period thereafter as the Governor-General of India in Council, by a notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal or revision by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner.

Suits and appeals relating to land during Settlement to be cognizable in Courts of Revenue.

**3.** The Financial Commissioner shall, with respect to such suits, be deemed the highest Court of appeal in the Province of Oude, within the meaning of the said Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court, and shall be subject to all the rules prescribed with reference to the Sudder Court by the said Code, subject to the restrictions, limitations, and provisos with which the said Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations, and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Powers of Financial Commissioner as highest Court of appeal.

**4.** No suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in Section 2, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Suits not to be instituted or tried by any other than the Courts or Authorities before specified.

**5.** No suit by an under-tenant, other than a Ryot or Cultivator, relating to any under-tenure, which shall be cognizable in any Revenue Court under this Act, shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844.

Certain suits by under-tenants not barred by limitation rules in force in Oude.

**6.** Any suit or appeal relating to any matter cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the Law of Limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within four months from the date of the passing of this Act. The petition may be written on the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court as the case may be.

Suits dismissed on ground of limitation-bar may be revived.

**7.** All claims relating to the proprietary right in, succession to or possession of, any land or any right in respect to any land which may accrue after the expiration of the period appointed in Section 2, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Questions relating to land accruing after period mentioned in Section 2.

**8.** No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province, and before the passing of this Act, in or in respect of any suit relating to any proprietary right in, succession to or possession of, any land or any right in respect of any land in the said Province, shall be invalid by reason of any thing contained in the said Code of Civil Procedure.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

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STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced to remove doubts which have arisen as to the legality of the decisions of the Revenue Authorities and the Financial Commissioner of Oude in Judicial cases consequent on the extension to the Province of the Code of Civil Procedure.

Since 1858 the Chief Commissioner has been vested with the powers of Financial Commissioner. The Government of India, under the power reserved in the General Orders of the Governor-General, dated 6th October 1858, which, under the Indian Councils' Act, has the force of law, has lately reconstituted the office under a separate Officer.

The Law of Limitation for the hearing of certain claims to rights of property in land has been extended to twelve years prior to the date at which the Province came under British dominion. This limitation will not extend to claims to rights of occupancy by cultivating tenants.

R. N. CUST.

*The 9th January* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 10th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 5 of 1865.

*A Bill to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.*

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; it it is enacted as follows :—

Short title.

**1.** This Act shall be called "The Punjab Courts' Act, 1865."

"Assistant Commissioner."

**2.** In this Act "Assistant Commissioner" shall include "Extra Assistant Commissioner."

Grades of Courts in the Punjab.

**3.** There shall be eight grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

(1.)—The Court of the Tahsildar of the second Class.
(2.)—The Court of the Tahsildar of the first Class.
(3.)—The Court of the Assistant Commissioner with ordinary powers.
(4.)—The Court of the Assistant Commissioner with special powers.
(5.)—The Court of the Assistant Commissioner with full powers.
(6.)—The Court of the Deputy Commissioner.
(7.)—The Court of the Commissioner.
(8.)—The Court of the Judicial Commissioner.

Local Government may declare grade to which any Tahsildar or Assistant Commissioner belongs.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar, or any Assistant Commissioner belongs.

Local Government, with sanction of Government of India, may give Naib Tahsildars powers of Tahsildar of second Class.

**5.** The Local Government shall also have power, with the sanction of the Government of India, to invest any Naib Tahsildar with the powers of a Tahsildar of the second Class whenever any necessity may arise for such an arrangement, and to withdraw such powers.

Jurisdiction of Tahsildar of second Class.

**6.** The Tahsildar of the second Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Tahsildar of first Class.

**7.** The Tahsildar of the first Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the power of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with ordinary powers.

**8.** The Assistant Commissioner with ordinary powers shall, on the Civil side, have power to try and determine suits of every description not exceeding one hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with special powers.

**9.** The Assistant Commissioner with special powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers

**10.** The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five thousand Rupees, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

**11.** The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the first four grades of lower Courts aforesaid, and on the Criminal side to exercise the powers of a Magistrate, and to hear appeals according to the provisions of the Code of Criminal Procedure. The Deputy Commissioner may also be invested with powers under Act V of 1861.

Jurisdiction of Commissioner.

**12.** The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the Courts of the fifth and sixth grades, and on the Criminal side to exercise the powers of a Sessions Judge, and to hear appeals according to the provisions of the Code of Criminal Procedure.

Court in which suit shall be instituted.

**13.** Every suit shall ordinarily be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Power of Deputy Commissioner to withdraw suits from subordinate Courts, and to direct distribution of work.

**14.** The Deputy Commissioner, on the Civil side, may withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority, and competent in respect of the value of the suit to try the same. The Deputy Commissioner may also direct any distribution of work in the Courts subordinate to him, exercising the like jurisdiction and holding their sittings in the same place.

**15.** The Chief Court, on the Civil side, may withdraw any suit instituted in any Court subordinate to it (with the exception of Small Cause Courts) and to refer it for trial to any other Court subordinate to its authority, and competent in respect of the value of the suit to try the same.

Power of Chief Court to transfer suits.

**16.** If the suit be for immoveable property situate within the limits of different districts within the same division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situated in different districts.

**17.** If the districts within the limits of which the immoveable property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to whom the district in which the suit is brought is subject, and the Commissioner to whom such application is made may, with the concurrence of the Commissioner to whom the other district is subject, give authority to proceed with the suit.

Suits for immoveable property situate in districts subject to different Commissioners.

**18.** The local jurisdiction of a Deputy Commissioner shall be deemed a district for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure. The local jurisdiction of a Commissioner shall, in the same way, be deemed a Division, and his Court a Divisional Court.

"District."
"District Court."
"Divisional Court."

**19.** Whenever the number of cases depending in any Divisional Court shall be so great as to require the appointment of additional agency, the local Government shall, with the previously obtained sanction of the Governor General of India in Council, have power to invest any Officers with the Civil and Criminal powers of a Commissioner as defined in this Act; the local Government may also on its own authority invest any Judge of a Court of Small Causes with the powers of an Assistant Commissioner with full powers, as aforesaid.

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

**20.** It shall be lawful for the local Government, with the previously obtained sanction of the Governor General of India in Council, in any district in which a Settlement is in progress, to vest any special Officer with the Civil powers of a Commissioner or Deputy Commissioner, or Assistant Commissioner or Tahsildar, on the Civil side, as described in this Act for the purpose of deciding cases with regard to rights in land and the product of land in such district; and it shall be lawful for the local Government on its own authority to empower Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioners in any district in which a Settlement is in progress, to exercise their respective powers in suits regarding rights in land and the product of land on the Revenue side of their respective Courts: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof

Local Government may invest special Officers with Civil powers of Commissioners, &c., in districts in course of settlement.

**21.** It shall be lawful for the local Government, on its own authority, to vest the Financial Commissioner with the powers of the Chief Court as described in Act of 1865 for the purpose of trying all special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under Section 20: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

Proviso.

**22.** No decision or order passed by any Judicial Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Saving of decisions and orders passed before passing of this Act.

**23.** This Act shall commence and come into operation on the first day of May 1865.

Commencement of Act.

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STATEMENT OF OBJECTS AND REASONS.

THE jurisdiction now exercised by the Criminal Courts in the Punjab and its Dependencies, is derived from the Code of Criminal Procedure, but the official title of the Officers exercising the different grades of powers is different. The jurisdiction now exercised by the Civil Courts is derived, not from any express provisions of law, but from orders passed from time to time by the Executive Government. As these orders bear a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called into question; but it is felt that it will be convenient to define the existing powers of the ordinary Courts of Civil and Criminal jurisdiction more particularly, and the opportunity is taken to place the Courts of Judicature of the Punjab on a legal basis, similar to that upon which the Courts of British Burmah and the Central Provinces have been or are being placed, and to give them a similar legal status. This is the first object of this Bill, which follows the form of the Central Provinces' Bill in so far as it defines the jurisdiction of the Courts to which it refers.

The Chief Court of the Punjab will be regulated by a separate Bill now pending before the Council.

A second object of this Bill is to vest certain powers in the Local Government to appoint addi-

tional Officers with the powers of a Commissioner, as defined in this Bill, when the pressure of business renders this necessary. The Local Government is also empowered to vest any Judge of a Small Cause Court with the powers of an Assistant Commissioner with full powers, as defined in this Bill. The sanction of the Government of India must be obtained to the appointment of additional Officers, as it entails additional expenditure.

Opportunity is also taken to legalize the jurisdiction of Officers on the Revenue side to try and determine suits affecting rights in land and the product of land. A Commissioner of Settlement has been appointed since the year 1861, vested with the Civil powers of a Commissioner as described in this Bill: under him are subordinate Officers of all grades, but there is no legal sanction to their judicial power which may hereafter be called into question. This Bill gives the Local Government power to appoint such Officers, but the sanction of the Government of India must precede, as in the case above stated.

By the practice of the Punjab, Judicial Officers of all grades have been in the habit of trying all suits affecting rights in land and the product of land on the Revenue side. A final appeal lies to the Financial Commissioner, to the exclusion of the Chief Court of Civil appeal of the Province. A power is granted to the Local Government to invest all Revenue Officers with Civil Court powers for the above-stated purpose so long as a Settlement is in progress; at the close of which such cases will revert to the ordinary jurisdiction of the Civil Courts. This provision corresponds with the provision which has been, with the consent of the Local Government, introduced into the Bill for constituting a Chief Court in the Punjab, and with the provision of the Bill to remove doubts as to the jurisdiction of the Financial Commissioner of Oude. It is to be understood that no change of procedure or law is made by the trial of suits affecting rights in land or the product of land on the Revenue side, but of the tribunal only. Whatever special jurisdiction the Revenue Courts may exercise in summary suits, or other suits made over to the Revenue Officers by special enactment, remains unchanged by this Bill, which relates only to suits regarding land and the product of land.

This Bill provides that no decision shall be set aside on account of any flaw in jurisdiction.

R. N. CUST.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in one week:—

No. 6 of 1865.

*A Bill to amend Act No. XVI of* 1864 *(to provide for the Registration of Assurances).*

Preamble.

Whereas it is expedient to amend Act No. XVI of 1864 *(to provide for the Registration of Assurances)*; It is enacted as follows:—

Act XVI of 1864 Sec. 40, repealed.

**1.** Section 40 of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

**2.** An Abstract of every original instrument affecting immoveable property registered in the office of any Deputy Registrar shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in Section 56 of the said Act XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Secs. 26 and 27 of Act XVI of 1864 during his absence on duty.

**3.** During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the local Government, such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

**4.** This Act shall be read and taken as part of the said Act No. XVI of 1864.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to remedy a defect in Section 40 of Act XVI of 1864, *(to provide for the Registration of Assurances)* which omits to provide what is to be done with the duplicate abstracts forwarded to the General Register Office; and to enable the Registrar General to appoint a Deputy to perform the duties of the former under Sections 26 and 27 of Act XVI of 1864, during his absence on duty.

G. N. TAYLOR.

*The 22nd February* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th February 1865 and was referred to a Select Committee, with instructions to make their report in five weeks :—

No. 7 OF 1865.

*A Bill to define and amend the Law relating to Intestate Succession among the Parsees.*

Preamble.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees :. It is enacted as follows :—

Division of property among widow and children of Intestate.

**1.** Where the Intestate has left a widow; if he has also left any children, the property shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

**2.** Where the Intestate has left a widower, if she has also left any children, the property shall be divided among the widower and children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

**3.** If the Intestate has left children, but no widow, the property shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

**4.** When a female Intestate has left children, but no widower, the property shall be divided amongst the children in equal shares.

Division of pre-deceased child's share of Intestate's property among the widow or widower and issue of such child.

**5.** If any child of the Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death, but so that the issue of a deceased child or grandchild shall take only the share which such child or grandchild would have taken if living. Provided that the issue of a grandchild living at the Intestate's death shall not, nor shall such widow or widower, if he or she shall have re-married during the Intestate's life time, be entitled to take under the provisions of this Section.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

**6.** If the Intestate die leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property, and the Intestate's widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves neither widow or widower nor lineal descendants.

**7.** If the Intestate die leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of his or her property. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great-grandfather and great-grandmother.

(5.) Great-Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not remarried at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grand-father's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

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STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to relieve the Parsees from the operation of the English Law, which prescribes the share which females shall take in succession to intestate property. It will provide what shall be the proportion of the shares of females in such inheritances among Parsees, and also, in the event of there being no lineal descendants of a person deceased, the order in which his relatives shall succeed to his property.

The Bill has, in substance, been prepared by the Parsees themselves.

CALCUTTA,
*The 20th February* 1865. } H. L. ANDERSON.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department, (Legislative.)*

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The following Report of the Select Committee, together with the Bill as settled by them was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1865 :—

## REPORT.

We, the undersigned Members of the Select Committee of the Council of the Governor General of India, for the purpose of making Laws and Regulations, to whom the Bill to amend the Procedure of Her Majesty's High Courts of Judicature, in the exercise of their Original Criminal Jurisdiction was referred, have considered the papers noted in the margin, and have the honour to submit the following Report :—

Minute by the Acting Chief Justice, High Court, Bombay, dated 12th September 1864.
From Mr Justice Forbes, No. 1003, dated 20th September 1864.
Minute by Mr. Justice Couch, dated 21st September 1864.
Remarks by Mr. Justice Levinge, dated 20th September 1864.
Minute by Mr. Justice Bayley, dated 21st September 1864.
Presentment by the Grand Jury, Calcutta, dated 27th September 1864.
From Advocate General, dated 19th February 1859.
From ditto, No. 27, dated 13th April 1860.
From Assistant Secretary to Government, Madras, dated 19th October 1864.
Note by Mr. Justice Norman, dated 17th November 1864.
Additional Minute by Mr. Justice Levinge, dated 18th November 1864.
From Mr. Justice Westropp, High Court, Bombay, dated 9th November 1864
From Acting Registrar, High Court, Madras, dated 16th November 1864.
Observations of the Chief Justice, High Court, Madras.
Presentment by Grand Jury, Madras, dated 3rd November 1864.
From Clerk of the Crown, No. 1784, dated 3rd December 1864.
Presentment of majority of Grand Jury, Calcutta.
Note by the Hon'ble the Mahárájá of Burdwan.
Petition of British Indian Association, dated 31st December 1864.
Petition of British born subjects residing at the Presidency of Fort William.

2. The abolition in India of the institution of the Grand Jury, though not the most important feature of the Bill, is that which has attracted the greatest share of public attention: we therefore deem it our duty, in the first instance, to notice that part of the proposed measure.

3. By the 8th Section of the 24th and 25th of Victoria, Cap. 104, the Supreme and Sudder Courts in Calcutta, Madras, and Bombay were abolished. By the 9th Section of the same Act, it was provided that the High Courts of the three Presidencies, established in the places of such Supreme and Sudder Courts, "should have and exercise all such powers and authority in relation to the Administration of Justice as Her Majesty by Letters Patent should grant and direct."

4. In forwarding the Letters Patent of the High Court in Calcutta, Her Majesty's Secretary of State for India stated, in the 25th paragraph of his letter of the 14th of May 1862, that, under certain Clauses, no change would, for the present, be effected by the Charter in the Administration of Criminal Justice in the Presidency Town, or in respect of persons subject to the Criminal Jurisdiction of the High Court residing in the interior of the country; but that it appeared to him some modification of the existing practice both in the Capital and the Mofussil was necessary, and that, on those points, he would address the Government of India in a separate despatch.

5. Her Majesty's Secretary of State, accordingly, in a despatch dated 29th February 1864, expressed his opinion that, as the most obvious reform in the mode of dealing with Criminal charges in the Presidency Towns, Grand Juries should be abolished, and he requested "that steps might be taken for the early introduction into His Excellency the Viceroy's Council of the necessary measure."

6. In support of the conclusion stated in this letter, Her Majesty's Secretary of State referred to two documents, 1st, a Presentment of the Grand Jury in Calcutta in December 1862; 2nd, the first Report of the Indian Law Commissioners.

7. The Grand Jury of Calcutta, in the Presentment to which the Secretary of State alluded, stated, with reference to certain cases of minor importance in the Calendar, "that such cases should not occupy the time of the Grand Jury, but be summarily dealt with by the Bench of Magistrates," and they presented, for the consideration of the Court, a recommendation for legislative enactment that may, "while preserving the institution of the Grand Jury in all its integrity, relieve it from the investigation of such petty charges as constitute the majority of cases in the Calendar of the Criminal Sessions."

8. The other document to which Her Majesty's Secretary of State referred, was the first Report of the Indian Law Commissioners. In the 151st page of that Report the following remarks appear :—

"The provisions proposed by us on the subject of Juries, commence with a rule to the effect that Grand Juries shall be abolished. This institution has never existed in India out of the Presidency Towns, is not adapted to the country, and as coming between the Magistrate and the Sessions Judge, so as to control in any way the proceedings of the former, would not be understood or appreciated by the great mass of the community. The retention of the Grand Juries in Calcutta would involve a very wide, and, as we think, an unnecessary diversity from the practice of the Mofussil in the mode of dealing with criminal charges."

9. In accordance with the foregoing view, the Bill submitted to the Council was prepared. Its provisions have been generally approved by Her Majesty's Government in a despatch dated 7th November 1864, received since the introduction of the measure, but a few modifications on points of detail, not material to the present discussion, have been suggested.

10. The abolition of Grand Juries has been expressly approved by the High Court and the Grand Jury of Madras. In Bombay, it has been approved by all the Judges excepting the Chief Justice. We have also strong reason for believing that the communities of Madras and Bombay, European as well as Native, are favourable to the measure. In Calcutta, a former Grand Jury, as has been stated, considered that a majority of the cases generally found in the Calendar should be removed from the cognizance of Grand Juries.

11. Considering, then, that the abolition of Grand Juries in India has been recommended by the Royal Commissioners and also by Her Majesty's Government, invested, as it has been, by Act of Parliament with special power in that behalf; considering also, that the proposal to abolish them is supported by the communities of Madras and Bombay, we think that, even apart from the question whether a Grand Jury is in itself and in other countries an useful institution, it would be difficult to find reasons for preserving it in India, much more for extending it to the Mofussil. Such extension, indeed, we believe to be almost impracticable. The information laid before us leads us to think that the material for Juries beyond the Presidency Towns is not more than sufficient to supply a satisfactory list of Common Jury-men. We desire, moreover, to call attention to the fact that unless the Legislature should re-establish that restriction of the right to serve on Juries which was expressly repealed by Statute 2 and 3 Will. 4, Cap. 117, Sec. 2, a Grand Jury over a large part of India would be chiefly composed of Native Gentlemen, as may be collected from the subjoined extract from the Jury Rules.* Whether this result would, in practice, be beneficial, it is unnecessary to consider, since it is not desired by the Europeans, and the documents expressive of Native opinion, which are before us, lead us to believe that the system of Grand Juries is not regarded with favour by the Natives.

12. Our Hon'ble Colleague, Mr. Bullen, while he admits that the establishment of the Grand Jury system in the Mofussil is impracticable, and while he acknowledges the difficulty of retaining it for Calcutta, so long as Madras and Bombay are desirous of dispensing with it, is nevertheless of opinion that if it had not been for the view which appears to be taken of the subject, in Madras and Bombay, Grand Juries might have been retained in the Presidency Towns, though not extended to the Mofussil.

13. The portion of the proposed measure to which we have given our most serious attention is that which provides facilities for the trial of European British subjects at or near the place at which they are alleged to have committed offences. The Bill, as originally framed, continued in effect for the Mofussil the system which has been established by Act of Parliament in the Presidency Towns, and under which much of the procedure in criminal trials is regulated by rules of the High Court. But Her Majesty's Government, and nearly all the Judges who have adverted to the subject, have expressed the opinion that many matters, which, in the Presidency Towns, depend upon rules of Court should, in the Mofussil at all events, be governed by express legislation. In accordance with this opinion, the Committee have made large additions to the Bill.

14. In order to explain the modifications which this measure will effect in the mode of trying European British subjects, it may be convenient to describe the course which, if the Bill becomes law, will be followed whenever a European British subject is charged in the Mofussil with an offence for which he would now be committed to the Presidency Town. As soon as the Magistrate has determined to commit the accused person, he will send to the High Court a copy of the charge and of the depositions and other documents connected therewith. The High Court, after communicating with Government—a communication of which the object is to inform the Court whether there is any intention of issuing a Commission within a reasonable time—will decide whether the person charged shall be tried at any place specified in such Commission, or shall be sent for trial as at present to a Presidency Town. The Magistrate will then commit him or hold him to bail in conformity with the direction of the High Court.

15. Some such system as that described in the last paragraph is for the present necessary to prevent the detention of accused persons during periods of unreasonable length. It is probable that, until proper accommodation for European prisoners has been provided in the Jails, and until further facilities of communication exist between the Presidency Towns and the large Mofussil Cities, the Government will only be able to depute Judges under Commission at irregular and uncertain intervals. We do not think that Europeans should be committed as of course for local trial until a system of regular Jail deliveries at fixed and not too long intervals can be established. But, in anticipation of the complete or partial establishment of such a system hereafter, we have provided that the High Court may, by a general order, direct that all Europeans who may be charged with offences within certain districts and within certain parts of the year shall be committed for trial at some particular place. When such an order has been given, the Magistrate will not be under the necessity of waiting for any special direction from the High Court before committing or bailing the accused person for trial at such place.

16. When a European British subject is tried by a Judge of the High Court in the Mofussil, the proceedings will be governed in general by the Code of Criminal Procedure. It appears to us that the

* "All covenanted servants of the Hon'ble Company's Civil Service, all persons who, according to the usage of England, are entitled to the style and addition of Esquire, or of any higher degree, or who shall be described in the lists hereinafter mentioned as Merchants or Bankers, all persons whose claims to the title of Rajah, or to have about them any insignia of equivalent rank, have been formally acknowledged by the Government, or whose rank or superiority of caste, according to the usage of their tribe or religion, would prevent them from sitting on Common Juries, or whose property, or interest in lands, tenements, or goods, would be worth two hundred thousand Rupees, after the payment of their just debts, shall be exempted from serving on any other than Special or Grand Juries; provided always that if any person, who is entitled to this exemption, shall be willing to waive the same and to serve on Common Juries, an entry to that effect shall be made in a separate column, upon the lists and book hereinafter mentioned, and the party shall be deemed to be qualified and liable to serve, both on Special and on Common Juries."

provisions of the Code, when applied to trials before a Judge of such authority and rank, may be conveniently modified in several particulars. Sections 37 to 41 of the Bill as amended by us contain the modifications in question. Their effect is to bring a trial before a Judge of the High Court in the Mofussil into close harmony with similar trials in the Presidency Towns.

17. All trials before a Judge sitting under Commission will be by Jury. The composition of the Jury is a matter which has engaged our anxious attention, and has been much discussed by us.

The Jury recommended for the Presidency Towns by the Royal Commissioners—which is a Jury of *nine* deciding by a majority of two-thirds if the Judge concur—appears to us preferable to the Jury system of the Code of Criminal Procedure. But we have finally decided to retain the familiar number of twelve, the verdict to be carried either by unanimity among the Jurors or by a majority consisting of nine, in the event of the Judge concurring. Absolute unanimity, which might entail the frequent discharge of Juries, we consider to be excluded by the largeness of the Jury we have determined upon, and by the scantiness of good Jury material in the Mofussil.

18. We have followed the principle which the Code of Criminal Procedure applies to the trials of Americans and of Europeans who are not British subjects, in providing that the majority of the Jury empanelled for the trial of a European British subject shall, if he so require, consist of Europeans or Americans. To secure a sufficient number of European Jurors, we have partially repealed the exemption of Military men from Juries under the Code, and we have permitted Commissioned and Non-Commissioned Officers to be summoned. We have, however, provided that no summons shall issue until after communication with the Commanding Officer, and that no Military man shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent Military duty.

19. As it is scarcely probable that the trials of European British subjects will occupy the whole time of the Judge during his sittings under Commission at a particular place, we have provided that he shall try such other persons committed to the Sessions Court of the place as he shall think proper. We have also made provision for including in the Commission any Barrister-at Law of five years' standing or Sessions Judge, who, under the name of Associate Judge, may try any person not being a European British subject whom the High Court Judge may direct him to try; but such last-mentioned trials will be regulated exclusively by the Code of Criminal Procedure. If the Judge of the High Court and an Associate Judge sit together, the former will exclusively conduct the trial.

20. We desire to add that the 30th Section of the Letters Patent of the Bengal High Court, and the corresponding Sections of the Letters Patent of the Madras and Bombay High Courts, which are repeated in Sections 22, 23, and 24 of the Bill, empower a Judge or Judges of the High Court, sitting under Commission, to exercise the same jurisdiction, power and authority as might be exercised by a Judge or Judges of the High Court at the Presidency Towns. Section 25 of the present Bill, which is in harmony with the Letters Patent, enables the High Court to allot such part of its extraordinary original civil jurisdiction, civil and criminal appellate jurisdiction and jurisdiction as a Court of revision or reference as the High Court may consider can be more conveniently exercised at the places mentioned in the Commission than at its usual place of sitting.

21. The changes we propose to effect in the Criminal Procedure of the High Court exercising jurisdiction at the Presidency Towns are not, apart from the abolition of the Grand Jury, of great importance. We have provided that all charges of capital crimes, and all the cases which the High Court may, on account of their difficulty, or for any other reason, direct to be so tried, shall be tried by Special Jury, a mode of trial now only in use for misdemeanors and of uncertain application since the enactment of the Indian Penal Code. The Special Jurors will be exempt from service on Common or Petty Juries, and the Special Jury list will, in the first instance, comprise all gentlemen now entitled to the privilege of serving on Grand Juries. But as we trust that, when the machinery of the Bill is in full operation, it will not exhaust the Petty Jury list to the extent to which it is now exhausted by the Grand Jury, we have provided that no addition shall be made to the Special Jury list until by death, departure from India, or other loss of qualification, the Special Jurors shall be reduced to two hundred, which number we think sufficient for the Special Jury cases likely to be tried in the Presidency Towns. When the number of Special Jurors is below two hundred, we provide that the full number shall be completed by selection on the part of some Officer nominated by the Chief Justice, regard being had to property, education, character, and intelligence. It may be remarked that, as we prescribe a maximum number of Special Jurors, no fixed qualification can be assigned, and the power vested in the selecting Officer must be entirely discretionary.

22. Finally, we desire to observe that, whether a trial under this Bill takes place in the Presidency Towns or in the Mofussil, a Judge of the High Court, if upon perusal of the depositions he considers any charge to be clearly unsustainable, will have the power to make an entry to that effect. Such an entry will operate in the Presidency Towns as a *nolle prosequi*, and will have practically the same result in the Mofussil. Moreover, if no further charge against the same person on the same grounds be preferred in three years, he will be placed in the same position as if he had been actually acquitted. The power of making such an entry we regard as an unobjectionable substitute for the functions of a Grand Jury.

23. Mr. Bullen individually prefers, for the trial of European British subjects in the Mofussil, an unanimous Jury of seven, consisting wholly of Europeans or Americans, to the Jury which the Committee has agreed to recommend.

24. We recommend that the Bill as amended by us be passed, but that it be previously republished with this Report in the *Official Gazette*.

H. S. MAINE.
C. BEADON.
R. NAPIER.
H. B. HARINGTON.
W. GREY.
H. L. ANDERSON.
J. N. BULLEN.
W. MUIR.
R. N. CUST.
D. COWIE.

*The 15th February* 1865.

## AMENDED BILL.

No. 19 OF 1864.

*A Bill to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.*

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, in the exercise of their original criminal jurisdiction, and also to provide for the exercise by such Courts of original criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit: It is enacted as follows:—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice."

"Chief Justice" shall include an Officiating Chief Justice.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India."

"British India" denotes the territories which are or may become vested in Her Majesty under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore and Malacca.

Gender and Number.

Words importing the masculine gender include females: words in the singular number include the plural; and words in the plural number include the singular.

*Of Charges where the accused is committed in a Presidency Town.*

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

**3.** Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which according to law may be dealt with as if it had been committed within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he will, to amend, alter or add to the charge.

**4.** The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter or add to the same.

Charge with amendments, alterations or additions (if any) to be recorded.

The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

**5.** The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same not exceeding one anna for each folio of ninety words.

Effect of charge.

**6.** Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Provision of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

**7.** In Act XVIII of 1862 *(to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature)*, the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

*Nolle prosequi* on unsustainable charge.

**8.** When any such charge shall have been recorded in the High Court as aforesaid and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

*Of Grand Juries.*

After commencement of this Act, Grand Jury not to be summoned.

**9.** From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to sum-

mon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors unless they have been summoned before the commencement of this Act.

**10.** No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

*Of Juries in the Presidency Towns.*

Certain trials to be held before Special Jurors.

**11.** Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year to be taken as giving the first list of Jurors and Special Jurors.

**12.** The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

**13.** The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving in Common Juries.

**14.** All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

**15.** The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall before the fifteenth day of April, which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent 15th day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Officer preparing the lists to have full discretion: no appeal from his decision.

**16.** The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Lists of Jurors to be published in the Gazette.

**17.** The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Jurors and Special Jurors to be numbered for each Sessions.

**18.** Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

*Of Challenges of Jurors in the Presidency Towns.*

Challenges.

**19.** A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array; and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the juror.

(3.) A previous conviction of the juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

**20.** The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge the juror shall be set aside.

**21.** Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging and service of jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new Rules made under this Section.

High Court to retain its present jurisdiction as to jurors in Presidency Towns except as altered by this Act.

*Of Sittings under a Commission.*

**22.** From and after the commencement of this Act, whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of such High Court to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

**23.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the place and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

**24.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power and authority, as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

**25.** The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference which it is competent to exercise at its usual place of sitting as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

High Court may allot jurisdiction to Judge acting under Commission.

**26.** Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and the limits of such districts or places shall be defined by notification in the Official Gazette.

Commission to specify time and place during and in which it shall travel.

**27.** The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Power to appoint an Associate Judge.

**28.** Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court, to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall request information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent, to the Clerk of the Crown, shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

Charge to be delivered with record of preliminary inquiry without the local limits of the original criminal jurisdiction.

**29.** The charge, whether it shall or shall not have been amended, altered, added to under the last preceding Section shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to, as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

The charge shall be deemed a charge under the Criminal Procedure Code.

If unsustainable, the proceedings may be stayed.

**30.** Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail of the High Court in such usual place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall if necessary cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

Procedure pending directions of High Court.

**31.** It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall if not bailed be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section to be given, and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section shall be dealt within all respects, as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

**32.** When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject

Jurisdiction over European British subjects tried under Commission.

before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to such subjects except as hereinafter declared.

**33.** The Judge of the High Court acting under such Commission in the place and manner therein mentioned and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Jurisdiction over persons not European British subjects tried under Commission.

**34.** All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Trials under Commission to be by Jury.

**35.** Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Summoning of Jurors to serve on trials under Commission.

Military men not exempt.

**36.** If the person charged shall be a European British subject and shall so require before the jury shall be empannelled, the majority the jurors shall consist of of Europeans or Americans. If such a jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Jury for trial of European British subject.

**37.** On every trial mentioned in the thirty-fourth Section of this Act, the jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of jury requisite to verdict of guilty.

**38.** During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Acts not of a judicial nature may be done by Clerk of the Crown.

**39.** So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

**40.** So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

**41.** When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Power to reserve for High Court any question of law or evidence.

Procedure where no such question reserved.

**42.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

Save as aforesaid Criminal Procedure Code to apply to juries under Commission.

**43.** If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

High Court Judge may direct Associate Judge to try any one triable under Commission not an European British subject.

**44.** From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

**45.** This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

Commencement of Act.

**46.** This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore and Malacca.

Act not to extend to Straits' Settlement.

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in two weeks :—

No. 26 OF 1864.

*A Bill to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.*

Preamble.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of Officers appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta ; it is enacted as follows :—

**1.** In this Act :—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Justice of the Peace."

"Justice of the Peace" includes any person duly appointed under the Statute 33 Geo. III, cap. 52, Section 151, to act as a Justice of the Peace within the Provinces of Bengal, Behar, and Orissa, and also any person duly appointed under the Statute 2 and 3 William IV, cap. 117, Section 1, to act as a Justice of the Peace within the town of Calcutta.

"Magistrate."

"Magistrate" denotes a Magistrate of Police appointed under Act XIII of 1856.

"Superintendent of the Presidency Jail." denotes any Officer appointed under this Act to receive and keep prisoners.

"Superintendent of the Presidency Jail."

**2.** Sections 47, 48, 49, 50, 51 and 52 of Act XVIII of 1862 (*to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction*), are hereby repealed.

Enactments repealed.

**3.** After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and the Judges, of the High Court in the exercise of their original Criminal jurisdiction shall not award and issue writs to the Sheriff of Calcutta commanding him to arrest and seize the bodies of offenders, and bring them to such place and them to keep until they shall be delivered by due course of law.

After commencement of Act no one to be committed to Sheriff.

And High Court not to issue writs to Sheriff.

**4.** It shall be lawful for the Government of Bengal to appoint an Officer who shall, under the name of Superintendent of the Presidency Jail, have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Government of Bengal may appoint Superintendent of Presidency Jail.

**5.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment, simple or rigorous, or to death, such person shall be delivered to the Superintendent of the Presidency Jail together with the warrant of the said Court, and such warrant shall be executed by such Officer, and returned by him to the High Court when executed.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

**6.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, such person shall be delivered for intermediate custody to the Superintendent of the Presidency Jail; and from such delivery the imprisonment of such person shall have effect in accordance with the provisions of Act XXXV of 1860 (*relating to the transportation of convicts*).

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

**7.** Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment with or without hard labour, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, such person shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of the Court.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

**8.** The Superintendent of the Presidency Jail shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

**9.** Persons committed by a Justice of the Peace for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

**10.** Every person arrested in pursuance of a warrant of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the Superintendent of the Presidency Jail; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

**11.** The Superintendent of the Presidency Jail shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Superintendent to detain such persons according to exigency of warrant.

**12.** From and after the passing of this Act, all persons confined in the House of Correction, or the Great Jail of Calcutta, whether under the sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the Superintendent of the Presidency Jail according to the terms of the warrants under which they have been respectively committed to custody.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

**13.** Any warrant of commitment under Regulation III, 1818, of the Bengal Code, may be directed to the Superintendent of the Presidency Jail in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

**14.** The provisions contained in the Statute 11 Vic., cap. 21 *(An Act to consolidate and amend the laws relating to Insolvent Debtors in India)*, relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the Superintendent of the Presidency Jail, or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vic. cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

**15.** This Act shall come into operation on the day of 1865.

Commencement of Act.

**16.** The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

Act may be extended to Madras and Bombay.

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STATEMENT OF OBJECTS AND REASONS.

The primary object of the present Bill is to remove the Great Jail of Calcutta from the control of the Sheriff, and to transfer it to that of the Government of Bengal.

The Sheriff of Calcutta, who has at present the exclusive control of the whole Jail, except the House of Correction, is not responsible to Government for the proper discharge of his duties. Much inconvenience has hence resulted. The Commissioner of Police, who manages the House of Correction, does not reside within the limits of the Jail, and cannot therefore give it the requisite personal attention. It is moreover desireable to provide that the Jail should be inspected more scientifically and regurlarly than can be done by the Visiting Justices, on whom that duty now devolves. The present Bill proposes to supply these defects by relieving the Sheriff and the Commissioner of Police from all concern with the Jail, and by placing the Officer in charge of it, as in the case of Jails in the Mofussil, under the authority of the Inspector-General and through him of the Government of Bengal.

Power is given to the Governors in Council of Madras and Bombay respectively, to deal in like manner with the Jails of Madras and Bombay.

CECIL BEADON.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

## HOME DEPARTMENT.

No. 1756.

*Fort William, the 21st February* 1865.

NOTIFICATIONS.

The Hon'ble E. P. Levinge, Puisne Judge of the High Court, has obtained leave of absence for two months under Section 6 of the Revised Covenanted Absentee Rules, with effect from the 22nd instant.

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No. 1757.

*The 22nd February* 1865.

The Governor General in Council is pleased to declare, under Section 44 of Act XXII of 1864, that in respect to the Courts of Small Causes in the Cantonments of

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| Delhi, | Meean Meer, |
| Umballa, | Ferozepore, |
| Jullundur, | Rawul Pindee, |
| Sealkote, | Mooltan, and |
| Umritsur, | Peshawur, |

the Judicial Commissioner of the Punjab shall exercise the powers vested in the Sudder Court by the provisions of Act XLII of 1860.

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No. 1758.

The Governor General in Council is pleased, under the provisions of Section 6 of Act XXIV of 1855, to declare that the Penitentiary at Hazareebagh shall be a place for the confinement of prisoners sentenced to penal servitude.

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No. 1759.

*The 23rd February* 1865.

Under the provisions of the Act of Parliament 24 and 25 Victoria, Chapter 104, Section 7, the Governor General in Council has been pleased to appoint Arthur George Macpherson, Esquire, Barrister at Law, to officiate until further orders as a Judge of the High Court of Judicature at Fort William in Bengal.

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No. 1760.

Mr. J. B. Worgan, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year from the date of embarkation.

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No. 1761.

The under-mentioned gentlemen, appointed by the Secretary of State for India Members of Her Majesty's Civil Service on the Bengal Establishment, have reported their arrival at Calcutta per Steam Ship "Candia," which arrived on the 12th November:—

Messrs. Francis Porten Beachcroft, Hamilton Winkeep Gordon, and Alexander Manson.

Notification No. 5518, dated the 18th November 1864, is cancelled.

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No. 1762.

The Reverend W. W. Phelps reported his departure from India on the 10th instant, on the furlough granted to him in Notification No. 5318, dated the 11th November 1864.

No. 1763.

The Governor General in Council is pleased to invest the under-mentioned Tehseeldar in the Central Provinces with the powers of a Subordinate Magistrate of the 2nd Class, described in Chapter II, Section 22 of Act XXV of 1861 :—

Pundit Imrit Rao.

No. 1764.

Kishen Singh Gountiah is invested with the powers of a Subordinate Magistrate of the 2nd Class, as defined in Section 22 of the Code of Criminal Procedure in the District of Jubbulpore.

No. 1765.

Mr. G. Law, Honorary Assistant Surgeon, is transferred temporarily from the Nagpore to the Bhundara District to assume medical charge of that Station, pending Doctor Reid's arrival.

Mr. Law assumed charge of the Civil medical duties on the afternoon of the 28th January 1865.

No. 1766.

Lieutenant M. M. Bowie, Assistant Commissioner, Sumbulpore, in the Central Provinces, officiated as District Superintendent of Police of that District from the 24th October to the 15th November 1864, inclusive.

No. 1767.

Mr. John Halliday is appointed an Honorary Magistrate for the town and district of Rangoon in the room of Mr. James Cameron Todd, deceased.

Mr. John Halliday is also invested with the powers of a Magistrate under Section 22 of the Code of Criminal Procedure.

No. 1768.

Mr. A. Thomas, in medical charge of Kyouk Phyoo, British Burmah, has obtained six months' leave on medical certificate with effect from the 12th of December 1864.

No. 1769.

Mr. C. E. Pyster, in medical charge of Sandoway, British Burmah, has obtained leave of absence on medical certificate for three months, with effect from the 24th of December 1864.

No. 1770.

Major J. F. J. Stevenson, Deputy Commissioner of Bassein, held charge of the Office of Superintendent of Police at that Station from the forenoon of the 2nd May to the forenoon of the 8th June 1864.

No. 1771.

The under-mentioned Officer in British Burmah is invested with the powers of a Subordinate Magistrate of the 2nd Class described in Section 22 of Act XXV of 1861, within the district of Moulmein, in British Burmah :—

Mr. M. Slym, Assistant Conservator of Forests, in charge of the Kuddoo Timber Revenue Station.

No. 1772.

The under-mentioned Officer in British Burmah is invested with the powers of a Subordinate Magistrate of the 2nd Class, described in Section 22 of Act XXV of 1861.

Moung Kyait, Extra Assistant Commissioner, 3rd Class.

No. 1773.

Captain M. Lloyd, Deputy Commissioner, made over charge of the Office of Superintendent of Police in the District of Toungoo, British Burmah, to Lieutenant M. C. Poole, Assistant Superintendent of Police, on the forenoon of the 26th January 1865.

No. 1774.

Mr. George Belcham, 3rd Class Sub-Assistant, Great Trigonometrical Survey, is promoted to the 2nd Class, with effect from the 1st of December last.

No. 1775.

One month's preparatory leave of absence has been granted to Captain T. G. Montgomerie, R. E., Astronomical Assistant, Great Trigonometrical Survey, with effect from the date on which he may avail himself of the same.

No. 1776.

Mr. E. Foy, Assistant Revenue Surveyor, 3rd Class, is transferred from the North-West Frontier to the 4th Division Central Provinces.

E. C. BAYLEY,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

REVENUE.

No. 91.

*Fort William, the 22nd February* 1865.

Under the provisions of Section 7 of Act XXIII, 1863, His Excellency the Governor General in Council is pleased to constitute the following Courts in British Burmah for the investigation and trial of claims under the above Act :—

### PEGU DIVISION.

RANGOON.

Three or more of the following gentlemen :—
Deputy Commissioner.
Magistrate.
Mr. George Bulloch. } Honorary Magistrates.
Mr. John Halliday. }
Superintendent of Police.
Civil Surgeon.
Oo Oung Bo (a trader).

BASSEIN.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Commissioner.
Superintendent of Police.
Medical Officer of Bassein.
Moung Byke (an elder).

PROME.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Commissioner.

Superintendent of Police.
Medical Officer of Prome.
Oo tha Myo (an elder).

MYANOUNG.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Superintendent of Police.
Extra Assistant Commissioner.
Medical Officer of Myanoung.
Oo Tseet (an elder).

TOUNGHOO.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Commissioner.
Assistant Superintendent of Police.
Extra Assistant Commissioner.
Oo Bouk (an elder).

## TENASSERIM DIVISION.

AMHERST.

Three or more of the following gentlemen :—
Deputy Commissioner.
Magistrate of Moulmein.
Mr. G. Buchanan. } Honorary Magistrates.
Mr. R. Hannay. }
Superintendent of Police.
Civil Surgeon.
Oo Oung Bo (a trader).

MARTABAN.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Commissioner.
Superintendent of Police.
Medical Officer of Shwe-gyeen.
Oo Yai (an elder).

TAVOY.

Three or more of the following gentlemen :—
Deputy Commissioner.
Superintendent of Police.
Medical Officer of Tavoy.
Extra Assistant Commissioner.
Moung Shwe Att (an elder).

MERGUI.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Superintendent of Police.
Extra Assistant Commissioner.
Medical Officer of Mergui.
Moung Kulla (an elder).

## ARRACAN DIVISION.

AKYAB.

Three or more of the following gentlemen :—
Deputy Commissioner.
Magistrate.
Mr. J. Bulloch. } Honorary Magistrates.
Retired Surgeon Major J. W. Mountjoy. }
Medical Officer of Akyab.
Superintendent of Police.
Nyohla Phroo (a trader).

RAMREE.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Superintendent of Police.
Extra Assistant Commissioner.
Medical Officer of Kyouk Phyoo.
Moung Boo (an elder).

SANDOWAY.

Three or more of the following gentlemen :—
Deputy Commissioner.
Assistant Superintendent of Police.
Extra Assistant Commissioner.
Medical Officer of Sandoway.
Nga Get Kay (an elder).

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MILITARY.

No. 77.

*The 22nd February* 1865.

Dr. L. F. Dickson is appointed to the medical charge of the Meywar Bheel Corps, in the room of Assistant Surgeon F. H. O'Donel.

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POLITICAL.

No. 153.

*The 21st February* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to recognize the appointment of Mr. Robert Bain as Consular Agent for the United States at Penang.

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GENERAL.

No. 411.

*The 21st February* 1865.

Colonel J. G. Balmain, Commissioner of the Chutteesgurh Division, in the Central Provinces, has obtained thirty-seven days' preparatory leave of absence, from such date as he may avail himself of it, for the purpose of appearing before a Medical Board, with a view to obtaining leave on medical certificate to England.

The following arrangements are made in consequence :—

Captain W. Nembhard, Deputy Commissioner, Jubbulpore, to officiate as Commissioner of the Chutteesgurh Division.

Mr. C. Grant, Settlement Officer of Nursingpore, to officiate as Deputy Commissioner of Jubbulpore.

Mr. A. M. Russell, Assistant Settlement Officer, Dumoh, to take charge of the Nursingpore Settlements, in addition to his other duties.

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No. 413.

Mr. W. Ramsay, Settlement Officer of Chindwarrah, in the Central Provinces, has obtained six months' leave of absence on private affairs, under Section 6 of the Civil Absentee Rules, from the date on which he may avail himself of it.

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No. 423.

*The 22nd February* 1865.

Lieutenant J. H. Plowden, Officiating Deputy Commissioner, Wurda, in the Central Provinces, has obtained thirty days' preparatory leave of absence, from the 16th February 1865, or such date as he may avail himself of it, for the purpose of appearing before a Medical Board, with a view to obtaining leave on medical certificate to England.

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No. 425.

Lieutenant Colonel D. Brown, Deputy Commissioner, 2nd Grade, British Burmah, made over charge of his Office and Treasury of Amherst to

Mr. G. E. Barr, Officiating Assistant Commissioner, 3rd Grade, on the noon of 23rd January 1865.

Lieutenant W. C. Plant, Assistant Commissioner, 2nd Grade, made over charge of the Prome District Treasury, at Thayetmyo, to Lieutenant H. R. Spearman, Assistant Commissioner, 3rd Grade, on the afternoon of the 12th January 1865.

No. 426.

Captain W. P. Harrison, Deputy Commissioner, Officiating, 3rd Grade, British Burmah, received charge of the Martaban District and Treasury from Mr. W. DeCourcy Ireland, Assistant Commissioner, 3rd Grade, in the forenoon of the 16th January 1865.

No. 432.

Lieutenant W. E. Forbes, Assistant Settlement Officer, in Oudh, has obtained leave of absence for twenty-eight days from the 10th instant, or from such date as he may avail himself of it, preparatory to applying for further leave to Europe on medical certificate.

No. 434.

The services of Mr. C. M. Rivaz, C. S., are placed at the disposal of the Punjab Government.

No. 441.

Captain C. T. O. Mayne, Assistant Commissioner, South-West Berar, returned to his duty on the forenoon of the 13th January 1865, from the leave granted him in G. O. No. 187, dated 25th ultimo.

A. COLVIN,
*Offg. Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 1004.

*Fort William, the 21st February* 1865.

NOTIFICATION.

Baboo Khetter Mohun Chatterjee received charge of the Office of Fourth Assistant Auditor General of India from Mr. G. W. Macleod, in the forenoon of the 17th February 1865.

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 20th February* 1865.

*No.* 183 *of* 1865.—The following order issued by the Government of Fort St. George is confirmed:—

| | |
|---|---|
| *No.* 41, *dated 27th January* 1865.—Granting leave of absence to the Cape of Good Hope, on medical certificate, to Major F. Angels, of the Bengal Invalid Establishment. | For 2 years, under the old Regulations. |

*No.* 184 *of* 1865.—With reference to the Notifications from the Foreign Department noted in the margin, the services of the under-mentioned Officers are placed at the disposal of His Excellency the Commander-in-Chief, those of Assistant Surgeon Cheke from the 1st proximo:—

No. 70, dated 16th instant.
No. 362, dated 13th instant.

Lieutenant S. C. Mactier, late 15th Native Infantry, Officiating Adjutant of the Malwa Bheel Corps.

Assistant Surgeon G. N. Cheke, in Medical charge of the Nepal Residency.

*No.* 185 *of* 1865.—Captain C. Baily, late 17th Native Infantry, is allowed an extension of leave from the 22nd January to the 10th February 1865, the date on which he returned to Bengal from sick leave to the Australian Colonies.

*No.* 186 *of* 1865.—The under-mentioned Soldiers are admitted to pension as specified opposite to their respective names:—

| | |
|---|---|
| Bombardier Cornelius Hastings, of No. 2 Battery Bengal Artillery. | 1*s.* (one shilling) per diem, payable in Europe. |
| Gunner James Dunohue, of No. 2 Battery Bengal Artillery. | 1*s.* (one shilling) per diem, payable in Europe. |

*No.* 187 *of* 1865.—The under-mentioned Officers have reported their return from England:—

| | *Date of arrival at Fort William.* |
|---|---|
| Captain A. A. Bruce, of the Bengal Staff Corps.<br>Captain F. B. Foote, of the Bengal Staff Corps.<br>Lieutenant J. H. Maling, of the General List, Infantry.<br>Lieutenant R. S. Green, of the General List, Infantry.<br>Surgeon A. J. Payne, M. D. and B. A., of the Medical Department, Superintendent of the European and Native Insane Asylums at Bhowaneepore and Dullunda. | 12th February 1865. |

*The 21st February* 1865.

*No.* 188 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 414 of the 31st December 1864, is published for general information:—

MILITARY. INDIA OFFICE,
No. 414. *London, 31st December* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have to inform you that Her Majesty has been pleased to approve of the appointment of Lieutenant Colonel and Brevet-Colonel Thomas Williams, C. B., 4th Foot, to the Staff of the Army in the East Indies as a Major General, vice Major General Lord G. A. F. Paget, C. B., who is to be placed on the Staff of the Army in Great Britain from the 1st April 1865.

I have, &c.,
(Signed) C. WOOD.

*No.* 189 *of* 1865.—Magazine Sergeant Thomas Arnold, having passed the prescribed examination, is appointed to officiate as Sub-Conductor in the Ordnance Department to fill an existing vacancy.

---

*No.* 190 *of* 1865.—On the recommendation of His Excellency the Commander-in-Chief, the Dooar Field Force is divided into two distinct Brigades, to be denominated the *Right* and *Left* Brigades, respectively, of the Dooar Field Force.

The former will be under Command of Brigadier General H. Tombs, C. B., V. C., and the latter under Command of Brigadier General J. M. B. F. Tytler, C. B.

Brigadier General Tombs will retain the rank and pay of a Brigadier General of the First Class while employed with the Dooar Field Force.

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*No.* 191 *of* 1865.—Brevet Major M. C. Sankey, of the Royal Artillery, Brigade Major to the Inspector of Artillery, Southern Division, Bengal Presidency, is appointed to act as Brigade Major to the Right Brigade Dooar Field Force.

---

*No.* 192 *of* 1865.—The under-mentioned Commissioned and Warrant Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Assistant Surgeon George Cochet Chesnaye, of the Medical Department, 2nd Assistant Surgeon, Allahabad General Hospital. | For 20 months, under the new Regulations. |
| Conductor Alfred Simmons, of the Army Commissariat Department. | For 20 months. |
| Sub-Conductor Charles Montagu, of the Department of Public Works. | For one year. |

---

*The 22nd February* 1865.

*No.* 193 *of* 1865.—The under-mentioned Officer has reported his return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Major W. Paske, of the Bengal Staff Corps. | 12th February 1865. |

---

*No.* 194 *of* 1865.—Captain C. Kelvey, of No. 5 Company, Calcutta Volunteer Rifle Corps, is allowed leave of absence to Europe for one year, from the 23rd instant.

---

*The 23rd February* 1865.

*No.* 195 *of* 1865.—The under-mentioned Officer of the Royal Engineers, who has been placed under orders for duty in the Bengal Presidency, reported his arrival on the date specified below :—

| | *Date of arrival at Fort William.* |
|---|---|
| Lieutenant G. C. B. Simmons ... | 18th Feb. 1865. |

---

*No.* 196 *of* 1865.—The under-mentioned Soldier is admitted to pension, as specified opposite to his name :—

| | |
|---|---|
| Private John Maher, of the Lahore Light Horse. | Equivalent to 1*s.* (one shilling) per diem, payable in India. |

*The 24th February* 1865.

*No.* 197 *of* 1865.—Captain H. B. Lockwood, late 4th European Light Cavalry, attached to the Stud Department, officiated as Aide-de-Camp on the Personal Staff of His Excellency the Viceroy and Governor General of India from the 15th January to the 17th instant, during the absence from the Presidency on special duty of Lieutenant Colonel S. Blane, Aide-de-Camp.

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*No.* 198 *of* 1865.—The services of Ensign R. G. Kennedy, of Her Majesty's 55th Foot, Aide-de-Camp on the Personal Staff of His Excellency the Viceroy and Governor General, are placed temporarily at the disposal of His Excellency the Commander-in-Chief for Field Service with his Regiment ordered to join the Dooar Field Force, with effect from the date of arrival at the Presidency of the Head Quarters of the Regiment.

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*No.* 199 *of* 1865.—His Excellency the Viceroy and Governor General of India has been pleased to appoint Captain H. B. Lockwood, of the late 4th European Light Cavalry, attached to the Stud Department, to officiate as Aide-de-Camp on His Excellency's Personal Staff, during the temporary absence of Ensign R. G. Kennedy, of Her Majesty's 55th Foot, with his Regiment on Field Service, or until further orders.

---

*No.* 200 *of* 1865.—Major N. E. Boileau, of the Bengal Staff Corps, Deputy Judge Advocate General, Peshawur Division, is allowed an extension of leave to the 11th January 1865, the date on which he returned to Bengal from furlough to Europe.

---

*No.* 201 *of* 1865.—The under-mentioned Officers have reported their return from England :—

| | Date of arrival at Fort William. |
|---|---|
| Lieutenant (Brevet Captain) H. R. B. Worsley, of the late 47th Regiment Native Infantry, Quarter Master, 7th Regiment Native Infantry ... ... ... ... | 18th February 1865. |
| Lieutenant W. G. Maitland, of the late 39th Regiment Native Infantry ... ... ... ... | |
| Captain H. R. Osborn, of the Bengal Staff Corps, 2nd Squadron Officer, 5th Bengal Cavalry ... | 20th February 1865. |
| Lieutenant J. B. Brander, of the late 37th Regiment Native Infantry ... ... ... ... | |

---

*No.* 202 *of* 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent Staff employ, to be Major from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :

*Bengal Staff Corps.*

Captain W. C. R. Mylne, 20th February 1865.

---

*No.* 203 *of* 1865.—The under-mentioned Officer having completed twelve years' service, four years

of which were on permanent Staff employ, to be Captain from the date specified opposite to his name under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval.

*Bengal Staff Corps.*

| | |
|---|---|
| Lieutenant (Brevet Captain) R. M. Sewell ... | 19th February 1865. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 54.

*Fort William, the 20th February* 1865.

NOTIFICATIONS.

Captain B. J. C. Prior, S. C., Officiating Controller and Examiner, Public Works Accounts, Central Provinces, availed himself, on the 3rd instant, of the two months' privilege leave granted him in Notification No. 12 of 16th January last.

No. 55.

*The 21st February* 1865.

Captain W. D. Chapman, M. S. C., Executive Engineer, 4th Class, Central Provinces, is granted one month's preparatory leave with effect from 1st August 1864.

No. 56.

Lieutenant Pole, R. E., is appointed an Assistant Engineer, 2nd Class, Department of Public Works, and posted to Mysore.

No. 57.

*The 22nd February* 1865.

Mr. F. R. Boyce, Assistant to the Chief Engineer and Assistant Secretary to Government of Bengal, Public Works Department, is appointed to officiate as Controller, Second Class, of Public Works Accounts, Bengal, in addition to his own duties, during the absence on special duty of Captain Trevor, or until further orders.

No. 58.

The services of Private J. A. Patterson, Overseer, 3rd Grade, Bengal, are placed at the disposal of the Government North-Western Provinces, for employment as Assistant Master in the Thomason College.

No. 59.

*The 23rd February* 1865.

Mr. A. D. Campbell, Assistant Engineer, 1st Class, North-Western Provinces, passed the Examination in Hindoostanee contemplated in G. O. G. G. dated 9th January 1837, and 31st May 1844, on the 9th January 1865.

No. 60.

In Notification No. 4 of the 4th January 1865, Sergeant H. B. Jackson should have been designated a Supervisor, 1st Grade.

No. 61.

Captain H. Z. Darrah, S. C., Executive Engineer, 4th Class, assumed charge of the Tounghoo Division of Public Works, British Burmah, on the 2nd January 1865.

No. 62.

Mr. C. B. Leupolt, Probationary Assistant Engineer, Punjab, passed the colloquial Examination in Hindoostanee on the 24th January 1865.

No. 63.

Notification No. 273 of the 3rd October last, appointing Mr. R. N. Coxen to the Department of Public Works, Bengal, as an Assistant Engineer, 1st Class, is cancelled.

No. 64.

His Excellency the Governor General in Council is pleased to make the following appointments:—

Lieutenant Colonel W. Maxwell, R. A., Superintending Engineer, 1st Class, Bengal, to be Chief Engineer, and Secretary to the Chief Commissioner, Central Provinces, with the rank of Chief Engineer, 2nd Class.

Lieutenant Colonel J. E. T. Nicolls, R. E., Superintending Engineer, 1st Class, North-Western Provinces, and Officiating Chief Engineer, and Secretary to the Chief Commissioner, Oudh, to officiate as Chief Engineer, 1st Class, and Secretary to the Government of Bengal.

Lieutenant Colonel C. W. Hutchinson, R. E., Superintending Engineer, 1st Class, Punjab, to officiate as Chief Engineer, 2nd Class, and Secretary to Chief Commissioner of Oudh.

Lieutenant Colonel C. J. Hodgson, R. E., Consulting Engineer for Railways in Oudh and Rohilkhund (which appointment is now abolished), to be a Superintending Engineer, 1st Class, vice Lieutenant Colonel W. Maxwell. Lieutenant Colonel Hodgson will continue to officiate as Chief Engineer, 1st Class, and Secretary to Government, North-Western Provinces.

Captain C. T. Stewart, R. E., Executive Engineer, 1st Class, North-Western Provinces, to officiate as Superintending Engineer in the North-Western Provinces.

Lieutenant Colonel J. D. Campbell, Superintending Engineer, 1st Class, is transferred from the North-Western Provinces to the Punjab.

No. 65.

*The 24th February* 1865.

Mr. H. Hutton, Overseer, 2nd Grade, is transferred from the Light House Circle to British Burmah and posted to the Rangoon Division, with effect from the 13th February 1865.

E. C. S. WILLIAMS, *Captain,* R. E.
*Under Secy. to the Govt. of India.*

# ADVERTISEMENTS.

## NOTIFICATION.

Instances having recently occurred of Officers in the North-Western Provinces submitting requisitons for leave to Calcutta from a misinterpretation of the instructions contained in this Office Notification published in the *Gazette of India* of the 31st December 1864, page 994, and in the *Calcutta Gazette* of the 11th January 1865, page 47; it is hereby notified that those instructions were intended to apply only to Officers whose Bills have hitherto been audited by the Civil Pay Master, Fort William.

HUGH SANDEMAN,
*Accountant General, Bengal.*

*The 23rd February* 1865.

## NOTIFICATION.

It is hereby notified that, under instructions from the Government of Bengal, a Treasury has been established at the Station of Mynagooree, in the Western Dooars of Bhootan, under the control of the Deputy Commissioner for the Western Dooars.

The Officer in charge of the Treasury at Mynagooree is authorised to issue Supply Bills and Transfer Receipts, payable from other Treasuries under the operations of the existing rules, but his Treasury should be drawn upon *on the public service only*, except for remittances to the Officers and men of the Forces in the Dooars.

HUGH SANDEMAN,
*Accountant General, Bengal.*

CALCUTTA;
BENGAL ACCTT. GENL.'S OFFICE,
*The 20th February* 1865.

No. 56.

## NOTIFICATION.

LOST, STOLEN, OR DESTROYED.

The under-mentioned Government Promissory Note deposited in the Treasure Chest of the late Cawnpore Executive Commissary Officer of this Division (Deputy Assistant Commissary General Captain W. W. Williamson), on the outbreak of the mutiny in the month of June 1857, by Sewbux Roy and Bissen Nath, late Contractors, is not forthcoming. The Note was endorsed in favor of Executive Commissariat Officer, Cawnpore, by the depositor, and has never been endorsed by him to any other party; payment of this Note and of interest thereupon have been stopped at the Loan Office, and application is about to be made to Government for the issue of a duplicate Note in favor of the Executive Commissariat Officer, Cawnpore.

No. 10402 of 1854-55, at 4 per cent., for Rs. 1,000.

S. CHALMERS, *Capt.*,
*Depy. Asst. Commy. Genl.*

CAWNPORE EXE. COMMT. OFFICE,
*The 18th February* 1865.

## NOTIFICATION.

With reference to Order No. 110 in the *Gazette of India*, dated 21st January 1865, it is notified that the Sudder Station of the Woon District is Yewutmull, and that letters should be addressed "viâ Karinjah."

R. HUDLESTON,
*Depy. Commr., South-East Berar.*

YEWUTMULL,
*The 6th February* 1865.

## NOTIFICATION.

The districts of East and West Berar having recently been sub-divided, the following Revised List of Districts comprised in the Hyderabad Assigned Districts is published for the guidance of Treasury Officers, with an intimation that Bills and Remittance Receipts cannot be drawn on the Deputy Commissioners of Maiker and Woon, who have no separate Treasuries attached to their respective Offices:—

*List of Berar Districts.*

| Name. | Designation of Officers. |
|---|---|
| Akolah District<br>Oomrawuttee ditto<br>Maiker ditto<br>Woon ditto | Deputy Commissioner. |

J. ROSE,
*Head Assistant in Charge*
*Depy. Audr. and Acctt.*
*Genl.'s Office, Hyderabad.*

OFFICE OF DEPY. AUDR. AND
ACCTT. GENL., HYDERABAD,
*Bolarum, 2nd February* 1865.

## NOTIFICATION.

Whereas much inconvenience and difficulty is experienced in the Loan and Interest Departments of this Office in tracing endorsements and receipts for interest written across the reverse of Government Promissory Notes presented for renewal or interest, notice is hereby given, with the sanction of Government, that in future cross receipts for interest will not be accepted, or further interest paid upon any note the reverse of which is filled up. The holders of notes so filled up can obtain new notes on application to the Loan Office, and on payment of the usual fees.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

## NOTICE.

Notice is hereby given that the Public Service Transfer Receipts will bear a higher number than it has hitherto been used from this date. The number will commence with No. 18101. The former series ended with No. 12050.

H. BATTS,
*In charge, Treasury.*

FYZABAD TREASURY,
*The 15th February* 1865.

## NOTICE.

The Interest and Responsibility of Mr. Walter Brett in the *Englishman* Press and Newspaper ceased on the 31st December 1864, by consent.

WALTER BRETT.
J. O'B. SAUNDERS,
*Managing Proprietor,*
*"Englishman."*

CALCUTTA,
*22nd February* 1865.

## COMMISSARIAT NOTIFICATION.

I. Under instructions from Government, the Tannery at Hoonsoor, near Mysore, with all fixtures, is to be disposed of, and notice is hereby given that tenders for the same will be received by the Deputy Commissary General at his Office at Madras, up to 12 o'clock noon of Tuesday, the 21st March 1865.

II. The Tannery stands in an enclosed yard about 626 feet long by 473 feet broad, and is situated on the "Lutchmen Treert" River, has an ample supply of water, and comprises—

"Bark and Raw Hide store-rooms,
"Lime and Bark Pits,
"Upper-storied Currier's shop,
"Buff Mill,
"Work shop,
"Store Godowns for finished goods,"

with all the other requisite buildings for a business capable of turning out 2,000 Hides a month in the best style.

III. The Tannery will be made over to the successful competitor on the 1st of July 1865, on his complying with conditions hereinafter mentioned.

IV. There is a large quantity of stock, raw and in process of tanning, on hand, which the successful competitor for the Tannery will have the option of taking at a valuation, composed of Australian, Cape, and Country Bullock, Buffaloe, Sheep, and Goat Hides.

V. One-third of the price to be paid down in cash on the acceptance of the successful tenders being declared, and the balance on or before the 1st July 1865.

VI. Should the successful competitor for the Tannery take the stock at a valuation, transfer of the whole property can be made at once on payment of balance of price.

VII. Failing the due fulfilment of this engagement, the purchaser will forfeit the aforesaid third of the purchase money.

VIII. Any further information required can be obtained on application at the Commissary General's Office, or to the Deputy Assistant Commissary General at Hoonsoor, who will show the Tannery.

IX. Intending purchasers must satisfy themselves of the nature and description of the Buildings and Articles. This Department will not be answerable for any errors of description.

By order,

E. E. MILLER, *Lieut. Colonel;*
*Deputy Commissary General.*

COMMY. GENERAL'S OFFICE,
*Madras, 21st January* 1865.

## BENGAL OFFICIAL ARMY LIST.

The *Bengal Official Quarterly Army List*, No. XI, corrected in the office of the Adjutant General up to the 1st of January 1865, is now ready. Price five Rupees *in advance*, and eight annas extra if sent by post. Apply to

CALCUTTA,
6, *Bankshall Street.* O. T. CUTTER, *Publisher.*

## NOTICE.

Mr. Robert Stewart is authorised to sign our Firm.

GLADSTONE, WYLLIE, AND CO.

CALCUTTA,
*20th February* 1865.

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*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 8.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, MARCH 4, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., cap. 67.**

The Council met at Government House on Friday, the 24th February 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

Major General the Hon'ble Sir R. Napier, K.C.B.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble J. N. Bullen.

The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádur.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

SUCCESSION AND INHERITANCE (PARSEES') BILL.

The Hon'ble MR. ANDERSON introduced the Bill to define and amend the law relating to Succession and Inheritance among the Parsees, and moved that it be referred to a Select Committee.

He said—"I have the honour, Sir, to introduce the Bill to define and amend the law relative to intestate succession among the Parsees, and to move that it be referred for consideration to a Select Committee.

As the Bill is a very short Bill, and as I recently explained its provisions at some length, I do not propose to detain the Council with any detailed statement on the present occasion. I would only repeat that the principal and almost only provision of the Bill is the reduction of the share which females shall take in succession to intestate property. The distinction to be drawn between the provisions relative to such property in the Indian Civil Code, and the provisions of the measure now submitted, is, that the former contemplates that men possessed of considerable property will, as a rule, make Wills. The distribution, therefore, proposed has chiefly had in view small properties, and with reference to such properties, it is a just and fair one. But the Parsees, on the other hand, are extremely averse from making Wills. Their measure then presumes, that large properties will be left intestate, and the distribution which they propose is that which a reasonable and provident man would make, were he framing a Will. For example—to take the instance which I suggested on a former occasion—a man dies leaving a widow, two sons, and two daughters. His property, we will assume, is worth £12,000; each son would then receive £4,000, the widow £2,000, and each daughter £1,000. Now putting aside the obligations imposed on sons, among Parsees, by their religious and social usages, I think if a Will to this effect were made by an Englishman, it would not be thought an unreasonable one. I make these remarks because I have just read in a public print of high character and ability of which I wish to speak with all respect, that the Bill I am introducing is a "semi-barbarous" measure. I confess that I am unable to understand in what the barbarous component consists. Gavelkind and

Borough-English, which still exist in parts of England, may be called semi-barbarous, but there is no provision in the present Bill which deserves such an epithet. A French Jurist would not be justified in designating the English Law of Primogeniture semi-barbarous, because it differred from the law of his own country, and an English Jurist for the same reason would not be justified in applying the same censure to the French Law which prescribes an equal division of landed property. A divergence from English Law does not constitute semi-barbarism; if it did, Scotland would be far removed from civilization. But as I am unwilling to remain under such censure without a successful attempt to justify myself, I beg to be permitted to read the substance of some observations in which I heartily concur.

*The Parsees and their Legislation.*

"The Parsee Meeting of the 20th August was an event in the history of India. For the first time a Native race has endeavoured by a national effort to remove a national grievance. The Parsees, the wealthiest and most able of the smaller races of India, labour under one special disadvantage. The British Government, though not bound by the pledge so often quoted and denied, has always conceded perfect religious liberty to Mussulmans and Hindús, or rather we should say, it has always conceded those social rights, which, in the East, are unfortunately mingled with religious belief. To employ the official phrase, the Natives settle "questions of divorce, marriage, and inheritance,"—the family bond, and the division of property—for themselves. When these principles came into operation, however, the Parsees were an obscure race of cultivators existing on sufferance in Guzerat and Cutch. Even if any one had known any thing of them or their creed, it would have seemed no special hardship to leave them undistinguished amid the millions of Hindús. They have since become what we know them, the most successful traders, the most active reformers, and the truest friends of the British Government in India. Still they have not been relieved of their disabilities. In the Mofussil, they have been subject to Muhammadan, and in Bombay, to the English Law. The Koran and Blackstone have been the Codes of men who recognize only the Zend Avesta. Up to 1837, they were under the English Law, even in matters of inheritance. In that year, however, a great scandal brought the anomalies of their position into strong relief. A Parsee lad, to the disgust of all around him, claimed the whole of his father's landed property, under the English Law. The idea of primogeniture seems to be opposed in the Native mind to some fundamental principle of justice. The Parsees petitioned the Legislature, and the Legislature passed an Act by which the landed property of the Parsees was declared to be in the nature of chattels real. Intestate estates are still, however, administered according to English Law, while all other difficulties remain unremoved as before. The English Law of marriage is made applicable to a people who have scarcely the idea of illegitimacy, and the law of divorce is applied to a race to whom the indissolubility of marriage, and the pecuniary penalty for dishonour, are equally abhorrent. Moreover, the Parsees have not even the advantage of a Code recognized among themselves. The force of public opinion might otherwise have supplied the place of legal enactment, and arguments derived from "immemorial custom" must have been attended to by the tribunals. They have no ancient book of laws, no Koran, and no authoritative account even of their *lex non scripta*. No man, therefore, knows the extent of his family rights, or the obligation of his family duties. Every family lawsuit is a lottery, and each man, of course, appeals to the system which best suits his own interest and convenience.

To remedy all these evils, the Parsees called the meeting of the 20th August. It was most numerously attended, and the report is well worthy of attentive perusal. For the first time, a great body of Natives have met to remove a practical grievance by measures calculated to have a practical effect. The Parsees act under no European instigation, for no European has any personal interest in the question. They have benefitted by no European guidance, for no European knew anything of the matter in hand. They did their own work by themselves. They used their own language to express their own thoughts. They appointed a Committee entirely of their own race, and their speeches were, for the most part, the free expression of Parsee ideas. In short, they originated instead of merely imitating. Nor was this perfect independence the only remarkable feature of the meeting. The tone adopted by the speakers in alluding to the British Government was equally observable. Not one speaker but started from the assumption that he lived under a good Government, and that because it was a good Government, he felt assured of ultimate success.

The plan adopted by such men is sure to be practical. The Parsee does not content himself with declaiming against injustice. The meeting listened to a quiet and indeed understated account of their grievance, and then resolved that a Managing Committee should be appointed to draw up a Code, embodying their ideas upon marriage, inheritance, and divorce. That this Code so prepared should be entrusted to Mr. LeGeyt, and that the Legislative Council should be earnestly entreated to pass it into law. There is little chance that the request will be refused. The Council has no prejudices in favour of any special system upon those points, and, least of all, any prejudice in favour of the English regulation of them. It will scarcely object to sanction, directly, rules which, in the case of Hindús and Muhammadans, it already sanctions tacitly. The Parsee request must, we conceive, be granted, and the leaders of the movement will have the credit of having, by one temperate effort, removed a long-standing grievance."

When reading sentiments like these, I can only recall the Bristol Election of 1774, and play the part of Creevey to the Burke of this able writer. They contain, I submit, my complete absolution from the charge of having submitted a semi-barbarous measure to the Council, and I therefore in all good humour appeal from the *Friend of India* of 1865 to the *Friend of India* of 1855.

There is another observation which I would wish to submit. The Indian Law Commissioners, not having the report of Sir Joseph Arnould's Commission before them, were of opinion that the Parsees were not entitled to separate legislation. They have recently been again addressed on the subject by Her Majesty's Secretary of State, who had taken a different view. Since the last meeting of the Council, I have received a letter from England, stating that the Indian Law Commissioners have informed the Secretary of State that they have now no objection to separate legislation for the Parsees in relation to intestate property, but that in their opinion the Parsees should be subject to that part of the Civil Code which relates to testamentary succession. I would submit that this is the exact course which it is proposed in the present Bill to follow.

I should mention that, as this Bill depends upon the Indian Civil Code which has not yet become law, I have not mentioned the date from which it should have effect. In Committee, I shall propose that the date be the 1st January 1866, the date on which the Indian Civil Code will probably come in force. I have, for the same reason, abstained from mentioning a particular period within which the Select Committee should be instructed to report.

The Hon'ble Raja Sahib Dyal Bahadur said that he wished to ask two questions—

*First.*—When the intestate, having been twice married, shall die leaving children by both marriages, are all such children to share alike, or is the collective issue of each marriage to receive an equal share?

*Second.*—Should the second wife of an intestate herself die intestate, will her property descend only to her own children, or to the whole of her husband's children, whether born of herself or his first wife? The Rájá thought these points should be clearly defined in the Bill.

The Hon'ble the Maharaja of Vizianagram said that the Bill having in substance been prepared by the Parsees themselves, the Council, he

thought, could have little or no objection to pass it. But he confessed he was at a loss to know why in certain cases the females should obtain only a fourth of what the males succeeded to, and in others to one-half, and in others again to an equal share. Sections 1 and 3 for instance provided that the share of each son should be four times the share of each daughter. According to Sections 2 and 4, the shares of the children, whether male or female, were to be equal. On reference to Sections 6 and 7, the general principle followed in the division of the property would seem to be that the males would obtain double of what the females standing in the same degree of propinquity would. He (the Mahárájá) would therefore suggest to the Council that some of the details be taken into their consideration, also the points referred to, before the Bill passed into law.

The Hon'ble Mr. Harington said it was right he should point out with reference to what had fallen from the Hon'ble Mr. Anderson at the conclusion of his remarks, to the effect that he had specified no period in his motion for the Select Committee to make their report, that if the Hon'ble Member's motion was adopted as it now stood, it would not be competent to the Select Committee, under the Rules of the Council, to report upon the Bill until after the expiration of twelve weeks from the date of the publication of the Bill in the Official Gazette. It was generally understood that when a Bill was ordered to be referred to a Select Committee without any instruction as to the time within which the Committee was to make their report, the public would have the full period mentioned in the Rule to which he had referred for considering the Bill and offering any remarks or suggestions in respect to it. It often happened that objections to a Bill were not received by the Select Committee until the time for reporting upon the Bill had arrived. It would not be fair to the public if, without any previous notice, the report of the Select Committee upon the present Bill was made before it was due with a view to the early passing of the Bill. Looking to the important character of the Bill, which proposed to amend the law of a large section of the community on the delicate subject of Inheritance and Succession to property, he did not think that twelve weeks could be considered too long a period for the publication of the Bill. This period was not required for the convenience of the Select Committee, who, if they had only the Bill to consider, would have no difficulty in settling its provisions in a much shorter time. The object in publishing a Bill for twelve weeks was that the public at large, and particularly that portion of it which was chiefly interested in the Bill, might know what was proposed, and have ample time to state any objections that they might have to any part of the Bill. The Bill was not intended for the Parsees in Bombay alone. It was intended also for the Parsees residing in Calcutta, Madras, and in other parts of the country. It might be true that the Bill had been prepared by the Parsees themselves, but it was prepared by only a small body of that community, and they knew that considerable difference of opinion prevailed amongst the Parsees in respect to the provisions of the Bill, which rendered it the more necessary that the Bill should be published for the full time prescribed by the Rules of the Council. Nor was there any reason for hurrying the Bill through the Council. It was not intended that the Indian Civil Code, from some of the provisions of which it was deemed right to exempt the Parsee community, should take effect until the 1st January 1866, and there would be ample time to pass the Bill before that date, even though it should not become law during the present sittings of the Council. If the Bill proposed only to exempt the Parsees from certain provisions of the Indian Civil Code, he should have no objection to the Bill being passed at once, but the Bill went further, and proposed to alter the existing laws of the Parsees in respect to Inheritance and Succession, which was a very different thing.

The Hon'ble Mr. Maine said that the question was, whether a Committee could not report at any time it thought proper. He rather thought that, if a Committee considered that longer time was not necessary, there would be no objection to their reporting sooner. He should be very sorry if they had to wait for twelve weeks in every case. Perhaps his Hon'ble friend (Mr. Anderson) would be so good as to inform the Council to what extent the so-called Law Committee of Bombay had authority to speak on behalf of their co-religionists. It would be undesirable to pass a measure like this without the consent of the whole Parsee Community.

The Hon'ble Mr. Anderson said, with reference to what had fallen from the Hon'ble Mr. Harington and the Hon'ble Mr. Maine, that he wished to offer only a few observations. The question before the Council was whether the Parsees should be exempted from the operation of the first Chapter of the Indian Civil Code, or as it was, now to be called "The Indian Succession Act, 1865." The difference between the Parsees in the Mofussil and the Parsees of Bombay was not considerable, and the course taken by the Bombay Parsees was a mean between that Act and the propositions of the Parsees in the Mofussil.

With regard to what fell from his Hon'ble friend Mr. Harington, he (Mr. Anderson) would first remark that this Bill had really been before the Parsees of India for the last ten years. He could not bring it forward at an earlier period of the Session, because it depended on the fate of the Indian Civil Code. But with regard to Mr. Harington's remark that they were asked to legislate for only a small portion of the Parsees, he (Mr. Anderson) begged to offer the following observations. First of all, the Parsees of Bombay were numerically the large majority. But besides that, the Council had had the opinions of the Parsees from all parts of the Mofussil, and, except as to a very few points, they, in all material respects, concurred with the Parsees of Bombay. Mr. Harington had said that there were Parsees in Calcutta. But he (Mr. Anderson) was in a position to state that the Parsees of Calcutta entirely approved of the Bill, and that such was the view conveyed to him by a deputation of Parsee residents in Calcutta whom he had the pleasure of meeting last year. He feared that the Council would consider that on the subject of the Parsees, he was lapsing into a state of boredom, and indeed yesterday his Hon'ble friend Mr. Cust, with that wit and scholarship for which he was remarkable, had observed to him "*Persicos odi, puer, apparatus.*" He hoped the Council would understand that this Bill had come before the Council in another form about five years ago. It had been referred to a Select Committee who said that this measure had not received any expression

of opinion from the Bombay Judges, or the Bombay Government and the local Officers. A Commission had accordingly been appointed, and in order to secure an expression of opinion from the Judges of the High Court, two of them had been appointed Members of the Commission. The Commission examined a great variety of witnesses, and received communications from Parsees in all parts of the Bombay Presidency, from those of Poona, Tannah, Surat, Broach, Ahmedabad, and other places.

He (Mr. Anderson) himself, on behalf of the Government, had sent copies of the Code all over the country. The Report of the Commission convinced the Bombay Government and Her Majesty's Secretary of State. The Bombay Government at that time was composed of men who were not likely to have recommended the measure without due consideration. At the head of the Government was a gentleman who was once a Member of the Government of India. He referred to Sir Bartle Frere. There was also Sir William Mansfield, who was little likely to vote in favour of the measure without a conviction of its propriety. He would also refer to the Hon'ble Mr. Frere who for years had been Judge at Surat, and who for about twelve years had been in Bombay either as the Chief Judge of the Sudder Court or as Member of Council. He (Mr. Anderson) thought that the Council had every guarantee that this Bill had been fully considered, and that every possible opportunity had been afforded to the Parsees for expressing their opinions with regard to it. They had stated objections—a great number of objections—but they were not of a very material character. The scale of distribution of intestate property proposed in the Bill presented a less divergence from the standard of the Indian Civil Code than the Parsees of the Mofussil themselves wished for. He did not see what objection there could be to the Bill, considering that the Parsees had for years past been beseeching the Council and the Government of India for this simple act of justice, viz., that they should not be squared down to the English Law of intestate succession, but that with regard to intestate property, all should share equally. He thought that the Select Committee were fully competent, if they felt themselves in a position to do so, to report in three or five weeks, instead of in twelve weeks. If the rule regarding twelve weeks were strictly followed, the Council would hardly be able to pass any Bills in each Session, unless they were Bills ready cut and dry. Surely that was not what a wise Legislature should insist upon. He therefore trusted that the Council would permit this Bill to pass after consideration by a Select Committee.

With regard to the suggestions which had been made by Rájá Sáhib Dyál and the Máhárájá of Vizianagram, they would be better considered in Committee; and if both those gentlemen would do him the honour to be Members of the Committe, he hoped he should be able to satisfy them with regard to their objections to the Bill.

The Hon'ble Mr. Muir said that he would wish to ask the Hon'ble Mr. Anderson if the Bill was substantially the same as that which had been before the Parsees for so many years?

The Hon'ble Mr. Anderson said that the Bill was in substance precisely the same. The Parsees had not had the benefit of a legal education, and the wording of the Bill, as drawn by them, was somewhat untechnical and inaccurate. The Parsees' draft provided (Section III) that, "if the intestate be a male, his property shall be divided into such number of shares as shall admit of its distribution in the following proportions:—To the widow half a share. To the sons one share each. To the daughters one quarter share each," and (Section IV) "if the intestate be a female, in the following proportions:—To her husband, one share. To her sons and daughters, one share each." For these provisions, at the suggestion of the Secretary to the Council, the following Sections had been substituted:—

"Where the intestate has left a widow, if he has also left any children, the property shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter."

"Where the intestate has left a widower, if she has also left any children, the property shall be divided among the widower and children, so that his share shall be double the share of each of the children."

The tables of kindred had also been removed from the body of the Bill to the Schedules. But as he (Mr. Anderson) said before, in substance there had not been the slightest alteration.

His Excellency the President said that it appeared to him that, under the rules, if no shorter period were fixed by the Council, the Committee could not report in less than three months. Rule 20 provided as follows:—

"When three months have elapsed from the publication of a Bill in the *Calcutta Gazette* or in any shorter period that the Council may order, the Select Committee to which the Bill may have been referred shall make a report thereon."

The Hon'ble Mr. Grey begged to suggest to the Hon'ble Member for Bombay to amend his motion by stating that the Bill be referred to a Select Committee, with instructions to report in five weeks.

The Hon'ble Mr. Anderson then moved that the Bill be referred to a Select Committee, with instructions to report in five weeks.

The Hon'ble Mr. Harington said he would offer no opposition to the motion, but he reserved to himself the right of opposing hereafter the passing of the Bill until it had been published for the usual period.

The Motion was put and agreed to.

### Government Forests' Bill.

The Hon'ble Mr. Maine moved that the Report of the Select Committee on the Bill to give effect to Rules for the management and preservation of Government Forests, be taken into consideration. He said that the alterations which had been recommended by the Select Committee in this Bill were not very material. Section 5 had been slightly altered. As it had stood, it merely provided for fine or imprisonment or both. The Select Committee, however, thought that the maximum of the amount of the fine should be expressed in the Bill, and that the fine, if not paid, should be enforced by imprisonment as provided in the Penal Code. There was no doubt that this was an improvement on the Section as originally drawn.

The last Section was new. The Bill originally applied to the whole of India. But when it was

last before the Council, he had stated that the Government had no information to show whether it would be favourably received by the Governments of Madras and Bombay. The Council were still without any information on this matter. On the whole, it appeared to him that the Forest system of those Presidencies exhibited some material differences from that of the Government of India. The Bill would not, in the first instance, apply to those Presidencies, but the Governments of Madras and Bombay would have the power to extend its operation to the territories under them respectively. He did not see what objection they could have to a Bill which only gave them power to make rules. This power, of course it was to be understood, would not stand in their way to make any other local enactment which they might think desirable.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

### INDIAN CIVIL CODE, CHAPTER I.

The Hon'ble MR. MAINE also presented the Report of the Select Committee on the Indian Civil Code, Chapter I.

### SHERIFF'S INDEMNITY (BENGAL) BILL.

The Hon'ble MR. HARINGTON in moving for leave to introduce a Bill to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original Civil jurisdiction, said that the necessity for this Bill had arisen from some recent proceedings in the High Court. Certain persons having been arrested in execution of decrees passed against them by the Court, had been committed to custody in default of paying the amounts for which they had severally been declared liable. After these persons had been in confinement for some time, a question arose whether Act VII of 1855, entitled an Act to amend the law of arrest on mesne process in Civil actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of prisoners confined under Civil process of any of the said Courts, was still in force, or whether the Act had not been repealed or superseded by the Code of Civil Procedure, which was extended to the High Courts of Calcutta, Madras and Bombay by Her Majesty's Letters Patent on the establishment of those Courts. It did not appear to have been denied that, up to the time to which he was referring, the law of 1855 had continued to be acted upon in the High Court at Calcutta in all matters to which it related. This was of course done in the belief that Act VII of 1855 was still in force, any thing in the Code of Civil Procedure notwithstanding. Had this belief been well founded, there would have been no necessity for the present Bill; but the High Court, after hearing the point fully argued, ruled—and he (Mr. Harington) ventured to think rightly—that from the date of the establishment of the Court, Act VII of 1855 ceased to have effect, and that its place had been taken by the provisions of the Code of Civil Procedure relating to arrests, whether on mesne process or in execution of decrees, which thenceforth became the only rule for regulating the proceedings of the Court in such matters. The Court followed up this ruling by declaring that certain provisions of the Code of Civil Procedure not having been observed in the cases of the persons referred to by him before they were sent to jail, their imprisonment and subsequent detention in custody by the Sheriff were illegal, and the Court accordingly ordered their discharge. It was not the intention of the Bill which he had asked for leave to introduce, to call in question the correctness of this order, much less to exercise any interference with it; but the effect of the order had been to place the Sheriff and Deputy Sheriff of Calcutta, and probably also the judgment-creditors, at whose instance the persons alluded to had been arrested, in jeopardy, in other words to render them liable to actions for damages by the persons whose imprisonment had been pronounced by the Court to have been illegal. As there could be no doubt that the Sheriff and his Officers, in arresting the persons in question and detaining them in custody, and the detaining creditors, had acted in good faith, and had only done what they were justified in considering the orders and practice of the Court authorized and required them to do, he thought the Council would agree with him, that they ought not to be exposed to the danger which he had mentioned, and that they were entitled to be indemnified by an Act of the Legislature. The second Section of the Bill proposed therefore to enact that—"No suit or proceeding should be maintained in any Court on the ground that any such arrest, detention or imprisonment as referred to in the preceding Section, and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the Code of Civil Procedure, or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code." There were still some persons in confinement in execution of judgments of the High Court under the circumstances which he had described, who, taking advantage of the recent orders of the Court, might apply for their discharge, and in some of the cases, it might be difficult for the Court to refuse their applications unless the Legislature interposed and made their imprisonment valid. There was no reason to believe that these persons had suffered any greater hardship in consequence of their having been imprisoned under Act VII of 1855, than they would have suffered had their imprisonment and detention taken place under the Code of Civil Procedure, and he did not think that it would be for the interests of justice that they should be set at liberty on what was really a technical ground. The first Section of the Bill accordingly provided that "All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal, and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil Jurisdiction, and the detention and imprisonment of all persons so arrested shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions, and imprisonments had been in accordance with the provisions of the Code of Civil Procedure." These were the principal provisions of the Bill. He had ascertained from Madras and Bombay that the Code of Civil Procedure had been considered in force in the High Courts of those Presidencies from the time of their

establishment in supersession of Act VII of 1855, but as a precautionary measure he had added a Section to the Bill giving power to the Governors in Council of Madras and Bombay, by an order to be published in the Official Gazette, to extend the Act so as to apply to arrests, imprisonments, and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the first day of March 1865.

The Motion was put and agreed to.

The Hon'ble Mr. Harington also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The President declared the Rules suspended.

The Hon'ble Mr. Harington then introduced the Bill and moved that it be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. Harington also moved that the Bill be passed.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to define and amend the law relating to Succession and Inheritance among the Parsees—The Hon'ble Messrs. Harington, Maine, and Anderson, the Hon'ble the Máhárájá of Vizianagram, the Hon'ble Rájá Sáhib Dyál Bahádur, and the Hon'ble Messrs. Taylor and Muir.

The Council then adjourned.

Whitley Stokes,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

Calcutta,
*The 24th February* 1865.

## HOME DEPARTMENT.

### Tea and Cinnamon found in Hill Tipperah.

*Extract from a Report by* Mr. C. Lane, *Chief Civil Asst., G. T. Survey, in charge Eastern Frontier Party, dated Chittagong,* 15*th August* 1864.

"The tea tree was found in Hill Tipperah by Mr. Civil Assistant W. C. Rossenrode, whilst carrying on the approximate triangulation in advance last season, at a hill called Sabrong, in latitude 23° 3′, and longitude 91° 48′. There is another tree in this country, called in Bengali the "maritcha," growing up to twenty-five or thirty feet in height, the venation of the leaves of which is the same as that of the tea. The leaves are also alternate, and indeed in appearance and size, the two leaves bear the greatest possible resemblance, and by itself only, that of the "maritcha," could not be distinguished from the genuine tea leaf, the color and freedom from down being also the same in both. The only visible difference is that the tea twig has a very small stipule at the base of the petiole, which the "maritcha" has not; in all other respects they are precisely identical.* It has been said that the tea tree will grow and thrive wherever the "maritcha" is found; this appears to be the case. It is not impossible the "maritcha" may be a species of tea. It is to be seen about the hill of Sabrong, where tea was found, as above stated, as well as on the extensive table-land between Gojalia H. S., in latitude 23°-9′ and longitude 91° 36′, and Tulamura H. S., in latitude 23° 11′ and longitude 91° 48′, and on the right bank of the River Fenny; indeed, there can be little doubt it is to be met with throughout the portion of Hill Tipperah, between latitude 23° 18′ and the Fenny, and, consequently, it may be inferred that the tree considered to be the genuine tea would also thrive here. The clove plant has likewise been found indigenous on the table-land between Gojalia H. S. and Tulamara H. S. Other spices would, no doubt, thrive here also. Specimen twigs of the "maritcha," of the tea, and of the clove were kindly taken charge of by a gentleman proceeding to Calcutta, but, unfortunately, when there, he did not find time sufficient to take the samples to the Secretary of the Horticultural Society, Mr. Blechynden, for his opinion.

*Extract of a letter dated* 13*th December* 1864, *from* Mr. Blechynden, *regarding the specimens of leaves referred to in Report on the southern portion of Hill Tipperah, surveyed in* 1863-64.

Dr. Cleghorn has been kind enough to examine the specimens of leaves from the Tipperah District, gathered by Mr. Lane, of the Great Trigonometrical Survey, and which accompanied your letter (without date) received last month.

One of them, Dr. Cleghorn tells me, is clearly a *cinamonum;* two of the others belong to Terustrœmiacious plants, and appear to be *Thea,* but without twigs, bearing flowers or fruits; it is not possible to give an opinion as to their specific identity.

True extract forwarded for the information of Lieut. Colonel Robinson, R. E., Officiating Superintendent, Great Trigonometrical Survey; one of the above specimens has, by the fruit, been ascertained to be tea.

C. Lane,
*Chief Civil Assistant, G. T. Survey,*
*In charge Eastern Frontier Party.*

* When about taking the field last November, the Commissioner of Chittagong desired me to look out for tea in the jungles of Hill Tipperah. To remove all doubts on the subject, it was deemed advisable to offer high remuneration to two of the hill men if they would gather seed at the proper season, and bring them to Chittagong. It remains to be seen if they will do so.

*Printed and Published for the Government of India, by* O. T. Cutter, *at the Military Orphan Press.*

No. 9.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 4, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th February 1865, and is hereby promulgated for general information :—

ACT No. III OF 1865.

*An Act relating to the rights and liabilities of Common Carriers.*

Preamble.

Whereas it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows :—

Short Title.

**1.** This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place by land or inland navigation for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 rupees in value, unless delivered as such.

**3.** No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property payment may be required at rates fixed by Carrier.

**4.** Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix : Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

Proviso.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

**5.** In case of the loss of or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

**6.** The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not

be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Carriers, with certain exceptions, may limit liability by special contract.

**7.** The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract.

In what case owner of railroad or tramroad answerable for loss or damage.

**8.** Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of any of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

**9.** In any suit brought against a Common Carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Plaintiff's in suits against Common Carriers for loss, damage or non-delivery not required to prove negligence or criminal act.

**10.** Nothing in this Act shall affect the provisions contained in the ninth, tenth and eleventh Sections of Act No. XVIII of 1854 *(relating to Railways in India)*.

Saving of provisions of Sections 9, 10 and 11 of Act XVIII of 1854.

SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hundís.
Currency Notes of the Government of India or Notes of any Banks, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints and Works of Art.
Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative).*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information:—

ACT No. IV OF 1865.

*An Act to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras or Bombay, from the operation of the twenty-sixth Section of Act No. VIII of* 1855.

Preamble.

WHEREAS under or by virtue of the twenty-sixth Section of Act No. VIII of 1855 *(to amend the Law relating to the Office and Duties of Administrator-General)*, the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration; And whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an Officer or Soldier dying on service exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be; It is enacted as follows:—

**1.** In this Act—

Interpretation Clause.

"Officer."

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

**2.** From and after the passing of this Act, the twenty-sixth Section of Act No. VIII of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

Short Title.

**3.** This Act shall be called "The Administrator General's Act, 1865."

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,*

*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd February 1865, and is hereby promulgated for general information:—

## ACT No. V OF 1865.

*An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.*

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

### *Preliminary.*

Short Title.

**1.** This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

**2.** This Act shall extend to all the territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

**3.** From and after the commencement of this Act, Act No. XXV of 1864 is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation Clause.

**4.** In this Act, unless there is something repugnant in the subject or context—

"Church of England." "Anglican."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Minor."

"Minor" means a person who has not completed the age of twenty-one years.

"Native Christians."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Section."

"Section" means a Section of this Act.

"Month" and "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

## PART I.

### *As to the persons by whom marriage may be solemnized.*

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

**5.** From and after the commencement of this Act no marriage between persons one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

**6.** Marriages may be solemnized in India—

(1.) By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which such person is a Minister.

(2.) By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

(3.) By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 *(for giving effect to the provisions of an Act of Parliament*

*passed in the 15th year of the reign of Her present Majesty entituled an Act for Marriages in India)* of the Governor-General of India in Council.

(4.) By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

(5.) By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

**7.** From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 *(for the solemnization of marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

**8.** From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

**9.** From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections, shall be null and void.

Marriages solemnized before 1st May 1865 by certain persons to be deemed valid.

**10.** All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

## PART II.

*As to the mode of solemnizing Marriages under this Act.*

Notice of intended marriage.

**11.** In every case of intended marriage between persons one or both of whom shall profess the Christian Religion, otherwise than—

1.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852: or

2.—By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies and customs of the Church to which he belongs: or

3.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies and customs of that Church: or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Proviso.

Publication of such notice.

**12.** The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Notice of intended marriage in private dwelling.

**13.** If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons intending marriage is a minor.

**14.** When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

**15.** The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

**16.** If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Appointment of Senior Marriage Registrar.

**17.** Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made: Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Issue of certificate of notice given and declaration made.

Proviso.

**18.** When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

In case of minority certificate not to issue until fourteen days after receipt of notice.

**19.** Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Declaration to be made before issue of certificate.

**20.** The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

Consent of parent or guardian when necessary.

**21.** Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

What persons may prohibit issue of certificate by notice.

**22.** If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Procedure of Minister on receipt of such notice.

**23.** When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Proceedings before issue of certificate in the case of Native Christians.

**24.** The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

Form of certificate.

**25.** After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

After issue of certificate, marriage may be solemnized.

**26.** Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Certificate to be void if marriage be not solemnized within two months.

**27.** Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Proof of marriage in accordance with the provisions of Part I of this Act.

PART III.

*As to the time for solemnizing Marriages.*

Hours between which marriages to be solemnized.

**28.** Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

Proviso.

PART IV.

*As to the Registration of Marriages in India.*

Marriages with certain exceptions to be registered as hereinafter prescribed.

**29.** All marriages solemnized in India from and after the commencement of this Act between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

Registration of marriages solemnized by Clergymen of the Church of England.

**30.** Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly Returns to Archdeaconry.

**31.** Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such Quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

**32.** Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

**33.** Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England, of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

**34.** After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

**35.** The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

**36.** The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Regis-

trars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

**37**. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

**38**. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of Marriages solemnized under Part V of this Act.

**39**. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said district, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said district; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

**40**. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths and Marriages.

Correction of errors.

**41**. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

**42**. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year, the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

**43**. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

**44**. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

**45**. Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio*.

**46**. Every Marriage Registrar hereafter appointed under the provisions of Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

*As to the Marriage of Native Christians.*

Power to license persons to grant certificates of Marriage between Native Christians.

**47.** And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

**48.** It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

(3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

**49.** When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid.

**50.** All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Register Book to be kept.

**51.** A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches to be allowed in the Register Book.

**52.** Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V not to apply to Roman Catholics.

**53.** This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

PART VI.

*As to Penalties.*

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

**54.** Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

**55.** Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person not duly authorized, solemnizing a marriage.

**56.** Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and

wilfully solemnize a marriage between persons one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts)*.

Punishment for solemnizing a marriage otherwise than between six A. M. and seven P. M. or without witnesses.

**57.** Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

**58.** The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Punishment for solemnizing marriage when either party is a minor within a certain time after notice.

**59.** Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage, when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

**60.** Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome solemnizing marriages without publication of notices, &c.

**61.** Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act, by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

**62.** Whoever not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate, intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

**63.** Whoever shall willfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

**64.** Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil Jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Jurisdiction to try persons for offences punishable under this Act.

**65.** Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Code of Criminal Procedure applicable to investigations and committals under this Act.

**66.** The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

SCHEDULE A—(See Section 11.)

*Notice of Marriage.*

To *the Reverend John Brown,* a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

| Name | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(Signed) *James Smith.*

(The *Italics* in this Schedule are to be filled up as the case may be and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE B—(See Section 24.)

*Registrar's Certificate.*

I, *the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal,* do hereby certify, that on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith,* one of the parties (that is to say),

| Names. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

and that the declaration required by Section 19 of "The Indian Marriage Act, 1865, has been duly made by the said (*James Smith*).

Date of notice entered *sixth July* 1865.
Date of certificate given *twentieth July* 1865. } The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *Twentieth* day of *July one thousand eight hundred and sixty-five,*

(Signed) *John Brown,*
*Minister of the Free Church of Scotland.*

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE C.—(See Section 30.)

*Form of Register of Marriages.*

Quarterly Returns
of
MARRIAGES
for
The Archdeaconry of ... { *Calcutta,* *Madras,* *Bombay,*

Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } as made and transmitted to me for the Quarter commencing the *First* day of *October* ending the *Thirty-first* day of *December,* in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

*Signature of Registrar.*

Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay.*

MARRIAGES solemnized at { *Allahabad,* *Barrackpore,* *Bareilly,* *Calcutta, &c., &c.*

| When married. | | | Names of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of marriage. | Father's Name and Surname. | By Banns or License. | Signatures of the Parties. | Signatures of two or more Witnesses present. | Signature by whom married. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year. | Month. | Day. | Christian. | Surname. | | | | | | | | | |
| | | | | | | | | | | | | | |

SCHEDULE D.—(See Section 34.)

MARRIAGE REGISTER BOOK.

| No. | When Married. Day. | Month. | Year. | Name of Parties. Christian. | Surname. | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra... | Wm. White. |
| | | | | Martha.. | Duncan... | 17 years | Spinster. | ..... | Agra... | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan*, } In the presence of us { *John Smith.* / *John Green.* }

CERTIFICATE OF MARRIAGE.

| No. | When Married. Day. | Month. | Year. | Name of Parties. Christian. | Surname. | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra... | Wm. White. |
| | | | | Martha.. | Duncan... | 17 years | Spinster.. | ..... | Agra... | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan*, } In the presence of us { *John Smith.* / *John Green.* }

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information :—

ACT No. VI OF 1865.

*An Act to continue Act No. XXXI of 1860.*

Preamble.

WHEREAS Act No. XXXI of 1860 *(relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases)*, is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows :—

Act XXXI of 1860 continued.

**1.** Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title

**2.** This Act may be cited as "The Arms' Act Continuance Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VII OF 1865.

*An Act to give effect to rules for the management and preservation of Government Forests.*

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows :—

Interpretation clause.

**1.** In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood, or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor-General in Council to exercise the powers of a Local Government under this Act.

Governor-General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

**2.** The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

**3.** For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

**4.** Rules made in pursuance of this Act may provide for the following matters :—

First.—The preservation of all growing trees, shrubs, and plants within Government Forests or of certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephant's tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohi-

biting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

**5.** In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

**6.** Such Rules when confirmed by the Governor-General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules.

**7.** All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

**8.** Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Procedure in case of arrest.

**9.** Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

**10.** Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

**11.** When any timber or other property shall be seized as liable to confiscation under this Act any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

**12.** Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

**13.** All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

**14.** When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

**15.** When any confiscation or penalty shall be adjudged under this Act, the local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

**16.** No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

**17.** No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Period within which charges to be brought.

**18.** This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Extent of Act.

**19.** This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests' Act, 1865."

Commencement of Act. Short Title.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VIII OF 1865.

*An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original Civil jurisdiction.*

Preamble.

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows :—

**1.** All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil jurisdiction, and the detention and imprisonment of all persons so arrested shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

**2.** No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention or imprisonment, as referred to in the preceding Section, and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the Code of Civil Procedure or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

No suit to lie against the Sheriff for any such illegal arrest, &c.

**3.** The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the first day of March 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

Extension of the Act to the High Courts of Madras and Bombay.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 10th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in four weeks :—

No. 5 of 1865.

*A Bill to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.*

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; it it is enacted as follows :—

**1.** This Act shall be called "The Punjab Courts' Act, 1865."

Short title.

**2.** In this Act "Assistant Commissioner" shall include "Extra Assistant Commissioner."

"Assistant Commissioner."

**3.** There shall be eight grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

Grades of Courts in the Punjab.

(1.)—The Court of the Tahsildar of the second Class.
(2.)—The Court of the Tahsildar of the first Class.
(3.)—The Court of the Assistant Commissioner with ordinary powers.
(4.)—The Court of the Assistant Commissioner with special powers.
(5.)—The Court of the Assistant Commissioner with full powers.
(6.)—The Court of the Deputy Commissioner.
(7.)—The Court of the Commissioner.
(8.)—The Court of the Judicial Commissioner.

**4.** The Local Government shall have power to declare to which of the said grades any Tahsildar, or any Assistant Commissioner belongs.

Local Government may declare grade to which any Tahsildar or Assistant Commissioner belongs.

**5.** The Local Government shall also have power, with the sanction of the Government of India, to invest any Naib Tahsildar with the powers of a Tahsildar of the second Class whenever any necessity may arise for such an arrangement, and to withdraw such powers.

Local Government, with sanction of Government of India, may give Naib Tahsildars powers of Tahsildar of second Class.

**6.** The Tahsildar of the second Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Tahsildar of second Class.

**7.** The Tahsildar of the first Class shall, on the Civil side, have power to try and determine suits of every description not exceeding three hundred Rupees, and on the Criminal side to exercise the power of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Tahsildar of first Class.

**8.** The Assistant Commissioner with ordinary powers shall, on the Civil side, have power to try and determine suits of every description not exceeding one hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the second Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with ordinary powers.

**9.** The Assistant Commissioner with special powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five hundred Rupees, and on the Criminal side to exercise the powers of a subordinate Magistrate of the first Class, as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with special powers.

**10.** The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description not exceeding five thousand Rupees, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers

**11.** The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the first four grades of lower Courts aforesaid, and on the Criminal side to exercise the powers of a Magistrate, and to hear appeals according to the provisions of the Code of Criminal Procedure. The Deputy Commissioner may also be invested with powers under Act V of 1861.

Jurisdiction of Deputy Commissioner.

**12.** The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Province, from any decision or order of any of the Courts of the fifth and sixth grades, and on the Criminal side to exercise the powers of a Sessions Judge, and to hear appeals according to the provisions of the Code of Criminal Procedure.

Jurisdiction of Commissioner.

**13.** Every suit shall ordinarily be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Court in which suit shall be instituted.

**14.** The Deputy Commissioner, on the Civil side, may withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority, and competent in respect of the value of the suit to try the same. The Deputy Commissioner may also direct any distribution of work in the Courts subordinate to him, exercising the like jurisdiction and holding their sittings in the same place.

Power of Deputy Commissioner to withdraw suits from subordinate Courts, and to direct distribution of work.

**15.** The Chief Court, on the Civil side, may withdraw any suit instituted in any Court subordinate to it (with the exception of Small Cause Courts) and to refer it for trial to any other Court subordinate to its authority, and competent in respect of the value of the suit to try the same.

Power of Chief Court to transfer suits.

**16.** If the suit be for immoveable property situate within the limits of different districts within the same division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situated in different districts.

**17.** If the districts within the limits of which the immoveable property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to whom the district in which the suit is brought is subject, and the Commissioner to whom such application is made may, with the concurrence of the Commissioner to whom the other district is subject, give authority to proceed with the suit.

Suits for immoveable property situate in districts subject to different Commissioners.

**18.** The local jurisdiction of a Deputy Commissioner shall be deemed a district for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure. The local jurisdiction of a Commissioner shall, in the same way, be deemed a Division, and his Court a Divisional Court.

"District."
"District Court."
"Divisional Court."

**19.** Whenever the number of cases depending in any Divisional Court shall be so great as to require the appointment of additional agency, the local Government shall, with the previously obtained sanction of the Governor General of India in Council, have power to invest any Officers with the Civil and Criminal powers of a Commissioner as defined in this Act; the local Government may also on its own authority invest any Judge of a Court of Small Causes with the powers of an Assistant Commissioner with full powers, as aforesaid.

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

**20.** It shall be lawful for the local Government, with the previously obtained sanction of the Governor General of India in Council, in any district in which a Settlement is in progress, to vest any special Officer with the Civil powers of a Commissioner or Deputy Commissioner, or Assistant Commissioner or Tahsildar, on the Civil side, as described in this Act for the purpose of deciding cases with regard to rights in land and the product of land in such district; and it shall be lawful for the local Government on its own authority to empower Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioners in any district in which a Settlement is in progress, to exercise their respective powers in suits regarding rights in land and the product of land on the Revenue side of their respective Courts: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof.

Local Government may invest special Officers with Civil powers of Commissioners, &c., in districts in course of settlement.

**21.** It shall be lawful for the local Government, on its own authority, to vest the Financial Commissioner with the powers of the Chief Court as described in Act of 1865 for the purpose of trying all special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under Section 20: Provided that no deviation be allowed from the Rules of Civil Procedure which would otherwise be in force, and that this power shall continue only so long as the Settlement operations shall be in progress, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

Proviso.

**22.** No decision or order passed by any Judicial Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Saving of decisions and orders passed before passing of this Act.

**23.** This Act shall commence and come into operation on the first day of May 1865.

Commencement of Act.

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STATEMENT OF OBJECTS AND REASONS.

THE jurisdiction now exercised by the Criminal Courts in the Punjab and its Dependencies, is derived from the Code of Criminal Procedure, but the official title of the Officers exercising the different grades of powers is different. The jurisdiction now exercised by the Civil Courts is derived, not from any express provisions of law, but from orders passed from time to time by the Executive Government. As these orders bear a date prior to the passing of the Indian Councils' Act, 1861, their validity, and the proceedings of the Courts established by them, cannot be called into question; but it is felt that it will be convenient to define the existing powers of the ordinary Courts of Civil and Criminal jurisdiction more particularly, and the opportunity is taken to place the Courts of Judicature of the Punjab on a legal basis, similar to that upon which the Courts of British Burmah and the Central Provinces have been or are being placed, and to give them a similar legal status. This is the first object of this Bill, which follows the form of the Central Provinces' Bill in so far as it defines the jurisdiction of the Courts to which it refers.

The Chief Court of the Punjab will be regulated by a separate Bill now pending before the Council.

A second object of this Bill is to vest certain powers in the Local Government to appoint additional Officers with the powers of a Commissioner, as defined in this Bill, when the pressure of business renders this necessary. The Local Government is also empowered to vest any Judge of a Small Cause Court with the powers of an Assistant Commissioner with full powers, as defined in this Bill. The sanction of the Government of India must be obtained to the appointment of additional Officers, as it entails additional expenditure.

Opportunity is also taken to legalize the jurisdiction of Officers on the Revenue side to try and determine suits affecting rights in land and the product of land. A Commissioner of Settlement has been appointed since the year 1861, vested with the Civil powers of a Commissioner as described in this Bill: under him are subordinate Officers of all grades, but there is no legal sanction to their judicial power which may hereafter be called into question. This Bill gives the Local Government power to appoint such Officers, but the sanction of the Government of India must precede, as in the case above stated.

By the practice of the Punjab, Judicial Officers of all grades have been in the habit of trying all suits affecting rights in land and the product of land on the Revenue side. A final appeal lies to the Financial Commissioner, to the exclusion of the Chief Court of Civil appeal of the Province. A power is granted to the Local Government to invest all Revenue Officers with Civil Court powers for the above-stated purpose so long as a Settlement is in progress; at the close of which such cases will revert to the ordinary jurisdiction of the Civil Courts. This provision corresponds with the provision which has been, with the consent of the Local Government, introduced into the Bill for constituting a Chief Court in the Punjab, and with the provision of the Bill to remove doubts as to the jurisdiction of the Financial Commissioner of Oude. It is to be understood that no change of procedure or law is made by the trial of suits affecting rights in land or the product of land on the Revenue side, but of the tribunal only. Whatever special jurisdiction the Revenue Courts may exercise in summary suits, or other suits made over to the Revenue Officers by special

enactment, remains unchanged by this Bill, which relates only to suits regarding land and the product of land.

This Bill provides that no decision shall be set aside on account of any flaw in jurisdiction.

R. N. CUST.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in one week :—

No. 6 of 1865.

*A Bill to amend Act No. XVI of* 1864 *(to provide for the Registration of Assurances).*

Preamble.

Whereas it is expedient to amend Act No. XVI of 1864 *(to provide for the Registration of Assurances)*; It is enacted as follows :—

Act XVI of 1864 Sec. 40, repealed.

**1.** Section 40 of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

**2.** An Abstract of every original instrument affecting immoveable property registered in the office of any Deputy Registrar shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in Section 56 of the said Act XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Secs. 26 and 27 of Act XVI of 1864 during his absence on duty.

**3.** During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the local Government, such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

**4.** This Act shall be read and taken as part of the said Act No. XVI of 1864.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to remedy a defect in Section 40 of Act XVI of 1864, *(to provide for the Registration of Assurances)* which omits to provide what is to be done with the duplicate abstracts forwarded to the General Register Office; and to enable the Registrar General to appoint a Deputy to perform the duties of the former under Sections 26 and 27 of Act XVI of 1864, during his absence on duty.

G. N. TAYLOR.

*The 22nd February* 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th February 1865 and was referred to a Select Committee, with instructions to make their report in five weeks :—

No. 7 OF 1865.

*A Bill to define and amend the Law relating to Intestate Succession among the Parsees.*

Preamble.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees : It is enacted as follows :—

Division of property among widow and children of Intestate.

**1.** Where the Intestate has left a widow; if he has also left any children, the property shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

**2.** Where the Intestate has left a widower, if she has also left any children, the property shall be divided among the widower and children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

**3.** If the Intestate has left children, but no widow, the property shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

**4.** When a female Intestate has left children, but no widower, the property shall be divided amongst the children in equal shares.

Division of pre-deceased child's share of Intestate's property among the widow or widower and issue of such child.

**5.** If any child of the Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death, but so that the issue of a deceased child or grand-

child shall take only the share which such child or grandchild would have taken if living. Provided that the issue of a grandchild living at the Intestate's death shall not, nor shall such widow or widower, if he or she shall have re-married during the Intestate's life time, be entitled to take under the provisions of this Section.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

**6.** If the Intestate die leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property, and the Intestate's widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves neither widow or widower nor lineal descendants.

**7.** If the Intestate die leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of his or her property. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

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THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great-grandfather and great-grandmother.

(5.) Great-Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

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THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not remarried at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grand-father's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to relieve the Parsees from the operation of the English Law, which prescribes the share which females shall take in succession to intestate property. It will provide what shall be the proportion of the shares of females in such inheritances among Parsees, and also, in the event of there being no lineal descendants of a person deceased, the order in which his relatives shall succeed to his property.

The Bill has, in substance, been prepared by the Parsees themselves.

CALCUTTA,
*The 20th February* 1865.

H. L. ANDERSON.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department, (Legislative.)*

The following Report of the Select Committee, together with the Bill as settled by them was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1865 :—

## REPORT.

We, the undersigned Members of the Select Committee of the Council of the Governor General of India, for the purpose of making Laws and Regulations, to whom the Bill to amend the Procedure of Her Majesty's High Courts of Judicature, in the exercise of their Original Criminal Jurisdiction was referred, have considered the papers noted in the margin, and have the honour to submit the following Report :—

Minute by the Acting Chief Justice, High Court, Bombay, dated 12th September 1864.
From Mr Justice Forbes, No. 1003, dated 20th September 1864.
Minute by Mr. Justice Couch, dated 21st September 1864.
Remarks by Mr. Justice Levinge, dated 20th September 1864.
Minute by Mr. Justice Bayley, dated 21st September 1864.
Presentment by the Grand Jury, Calcutta, dated 27th September 1864.
From Advocate General, dated 19th February 1859.
From ditto, No. 27, dated 13th April 1860.
From Assistant Secretary to Government, Madras, dated 19th October 1864.
Note by Mr. Justice Norman, dated 17th November 1864.
Additional Minute by Mr. Justice Levinge, dated 18th November 1864.
From Mr. Justice Westropp, High Court, Bombay, dated 9th November 1864.
From Acting Registrar, High Court, Madras, dated 15th November 1864.
Observations of the Chief Justice, High Court, Madras.
Presentment by Grand Jury, Madras, dated 3rd November 1864.
From Clerk of the Crown, No. 1784, dated 3rd December 1864.
Presentment of majority of Grand Jury, Calcutta.
Note by the Hon'ble the Mahárájá of Burdwan.
Petition of British Indian Association, dated 31st December 1864.
Petition of British born subjects residing at the Presidency of Fort William.

2. The abolition in India of the institution of the Grand Jury, though not the most important feature of the Bill, is that which has attracted the greatest share of public attention: we therefore deem it our duty, in the first instance, to notice that part of the proposed measure.

3. By the 8th Section of the 24th and 25th of Victoria, Cap. 104, the Supreme and Sudder Courts in Calcutta, Madras, and Bombay were abolished. By the 9th Section of the same Act, it was provided that the High Courts of the three Presidencies, established in the places of such Supreme and Sudder Courts, "should have and exercise all such powers and authority in relation to the Administration of Justice as Her Majesty by Letters Patent should grant and direct."

4. In forwarding the Letters Patent of the High Court in Calcutta, Her Majesty's Secretary of State for India stated, in the 25th paragraph of his letter of the 14th of May 1862, that, under certain Clauses, no change would, for the present, be effected by the Charter in the Administration of Criminal Justice in the Presidency Town, or in respect of persons subject to the Criminal Jurisdiction of the High Court residing in the interior of the country; but that it appeared to him some modification of the existing practice both in the Capital and the Mofussil was necessary, and that, on those points, he would address the Government of India in a separate despatch.

5. Her Majesty's Secretary of State, accordingly, in a despatch dated 29th February 1864, expressed his opinion that, as the most obvious reform in the mode of dealing with Criminal charges in the Presidency Towns, Grand Juries should be abolished, and he requested "that steps might be taken for the early introduction into His Excellency the Viceroy's Council of the necessary measure."

6. In support of the conclusion stated in this letter, Her Majesty's Secretary of State referred to two documents, 1st, a Presentment of the Grand Jury in Calcutta in December 1862; 2nd, the first Report of the Indian Law Commissioners.

7. The Grand Jury of Calcutta, in the Presentment to which the Secretary of State alluded, stated, with reference to certain cases of minor importance in the Calendar, "that such cases should not occupy the time of the Grand Jury, but be summarily dealt with by the Bench of Magistrates," and they presented, for the consideration of the Court, a recommendation for legislative enactment that may, "while preserving the institution of the Grand Jury in all its integrity, relieve it from the investigation of such petty charges as constitute the majority of cases in the Calendar of the Criminal Sessions."

8. The other document to which Her Majesty's Secretary of State referred, was the first Report of the Indian Law Commissioners. In the 151st page of that Report the following remarks appear :—

"The provisions proposed by us on the subject of Juries, commence with a rule to the effect that Grand Juries shall be abolished. This institution has never existed in India out of the Presidency Towns, is not adapted to the country, and as coming between the Magistrate and the Sessions Judge, so as to control in any way the proceedings of the former, would not be understood or appreciated by the great mass of the community. The retention of the Grand Juries in Calcutta would involve a very wide, and, as we think, an unnecessary diversity from the practice of the Mofussil in the mode of dealing with criminal charges."

9. In accordance with the foregoing view, the Bill submitted to the Council was prepared. Its provisions have been generally approved by Her Majesty's Government in a despatch dated 7th November 1864, received since the introduction of the measure, but a few modifications on points of detail, not material to the present discussion, have been suggested.

10. The abolition of Grand Juries has been expressly approved by the High Court and the Grand Jury of Madras. In Bombay, it has been approved by all the Judges excepting the Chief Justice. We have also strong reason for believing that the communities of Madras and Bombay, European as well as Native, are favourable to the measure. In Calcutta, a former Grand Jury, as has been stated, considered that a majority of the cases generally found in the Calendar should be removed from the cognizance of Grand Juries.

11. Considering, then, that the abolition of Grand Juries in India has been recommended by the Royal Commissioners and also by Her Majesty's Government, invested, as it has been, by Act of Parliament with special power in that behalf; considering also, that the proposal to abolish them is supported by the communities of Madras and Bombay, we think that, even apart from the question whether a Grand Jury is in itself and in other countries an useful institution, it would be difficult to find reasons for preserving it in India, much more for extending it to the Mofussil. Such extension, indeed, we believe to be almost impracticable. The information laid before us leads us to think that the material for Juries beyond the Presidency Towns is not more than sufficient to supply a satisfactory list of Common Jury-men. We

desire, moreover, to call attention to the fact that unless the Legislature should re-establish that restriction of the right to serve on Juries which was expressly repealed by Statute 2 and 3 Will. 4, Cap. 117, Sec. 2, a Grand Jury over a large part of India would be chiefly composed of Native Gentlemen, as may be collected from the subjoined extract from the Jury Rules.* Whether this result would, in practice, be beneficial, it is unnecessary to consider, since it is not desired by the Europeans, and the documents expressive of Native opinion, which are before us, lead us to believe that the system of Grand Juries is not regarded with favour by the Natives.

12. Our Hon'ble Colleague, Mr. Bullen, while he admits that the establishment of the Grand Jury system in the Mofussil is impracticable, and while he acknowledges the difficulty of retaining it for Calcutta, so long as Madras and Bombay are desirous of dispensing with it, is nevertheless of opinion that if it had not been for the view which appears to be taken of the subject, in Madras and Bombay, Grand Juries might have been retained in the Presidency Towns, though not extended to the Mofussil.

13. The portion of the proposed measure to which we have given our most serious attention is that which provides facilities for the trial of European British subjects at or near the place at which they are alleged to have committed offences. The Bill, as originally framed, continued in effect for the Mofussil the system which has been established by Act of Parliament in the Presidency Towns, and under which much of the procedure in criminal trials is regulated by rules of the High Court. But Her Majesty's Government, and nearly all the Judges who have adverted to the subject, have expressed the opinion that many matters, which, in the Presidency Towns, depend upon rules of Court should, in the Mofussil at all events, be governed by express legislation. In accordance with this opinion, the Committee have made large additions to the Bill.

14. In order to explain the modifications which this measure will effect in the mode of trying European British subjects, it may be convenient to describe the course which, if the Bill becomes law, will be followed whenever a European British subject is charged in the Mofussil with an offence for which he would now be committed to the Presidency Town. As soon as the Magistrate has determined to commit the accused person, he will send to the High Court a copy of the charge and of the depositions and other documents connected therewith. The High Court, after communicating with Government—a communication of which the object is to inform the Court whether there is any intention of issuing a Commission within a reasonable time—will decide whether the person charged shall be tried at any place specified in such Commission, or shall be sent for trial as at present to a Presidency Town. The Magistrate will then commit him or hold him to bail in conformity with the direction of the High Court.

15. Some such system as that described in the last paragraph is for the present necessary to prevent the detention of accused persons during periods of unreasonable length. It is probable that, until proper accommodation for European prisoners has been provided in the Jails, and until further facilities of communication exist between the Presidency Towns and the large Mofussil Cities, the Government will only be able to depute Judges under Commission at irregular and uncertain intervals. We do not think that Europeans should be committed as of course for local trial until a system of regular Jail deliveries at fixed and not too long intervals can be established. But, in anticipation of the complete or partial establishment of such a system hereafter, we have provided that the High Court may, by a general order, direct that all Europeans who may be charged with offences within certain districts and within certain parts of the year shall be committed for trial at some particular place. When such an order has been given, the Magistrate will not be under the necessity of waiting for any special direction from the High Court before committing or bailing the accused person for trial at such place.

16. When a European British subject is tried by a Judge of the High Court in the Mofussil, the proceedings will be governed in general by the Code of Criminal Procedure. It appears to us that the provisions of the Code, when applied to trials before a Judge of such authority and rank, may be conveniently modified in several particulars. Sections 37 to 41 of the Bill as amended by us contain the modifications in question. Their effect is to bring a trial before a Judge of the High Court in the Mofussil into close harmony with similar trials in the Presidency Towns.

17. All trials before a Judge sitting under Commission will be by Jury. The composition of the Jury is a matter which has engaged our anxious attention, and has been much discussed by us.

The Jury recommended for the Presidency Towns by the Royal Commissioners—which is a Jury of *nine* deciding by a majority of two-thirds if the Judge concur—appears to us preferable to the Jury system of the Code of Criminal Procedure. But we have finally decided to retain the familiar number of twelve, the verdict to be carried either by unanimity among the Jurors or by a majority consisting of nine, in the event of the Judge concurring. Absolute unanimity, which might entail the frequent discharge of Juries, we consider to be excluded by the largeness of the Jury we have determined upon, and by the scantiness of good Jury material in the Mofussil.

18. We have followed the principle which the Code of Criminal Procedure applies to the trials of Americans and of Europeans who are not British subjects, in providing that the majority of the Jury empanelled for the trial of a European British subject shall, if he so require, consist of Europeans or Americans. To secure a sufficient number of

* "All covenanted servants of the Hon'ble Company's Civil Service, all persons who, according to the usage of England, are entitled to the style and addition of Esquire, or of any higher degree, or who shall be described in the lists hereinafter mentioned as Merchants or Bankers, all persons whose claims to the title of Rajah, or to have about them any insignia of equivalent rank, have been formally acknowledged by the Government, or whose rank or superiority of caste, according to the usage of their tribe or religion, would prevent them from sitting on Common Juries, or whose property, or interest in lands, tenements, or goods, would be worth two hundred thousand Rupees, after the payment of their just debts, shall be exempted from serving on any other than Special or Grand Juries; provided always that if any person, who is entitled to this exemption, shall be willing to waive the same and to serve on Common Juries; an entry to that effect shall be made in a separate column, upon the lists and book hereinafter mentioned, and the party shall be deemed to be qualified and liable to serve, both on Special and on Common Juries."

European Jurors, we have partially repealed the exemption of Military men from Juries under the Code, and we have permitted Commissioned and Non-Commissioned Officers to be summoned. We have, however, provided that no summons shall issue until after communication with the Commanding Officer, and that no Military man shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent Military duty.

19. As it is scarcely probable that the trials of European British subjects will occupy the whole time of the Judge during his sittings under Commission at a particular place, we have provided that he shall try such other persons committed to the Sessions Court of the place as he shall think proper. We have also made provision for including in the Commission any Barrister-at Law of five years' standing or Sessions Judge, who, under the name of Associate Judge, may try any person not being a European British subject whom the High Court Judge may direct him to try; but such last-mentioned trials will be regulated exclusively by the Code of Criminal Procedure. If the Judge of the High Court and an Associate Judge sit together, the former will exclusively conduct the trial.

20. We desire to add that the 30th Section of the Letters Patent of the Bengal High Court, and the corresponding Sections of the Letters Patent of the Madras and Bombay High Courts, which are repeated in Sections 22, 23, and 24 of the Bill, empower a Judge or Judges of the High Court, sitting under Commission, to exercise the same jurisdiction, power and authority as might be exercised by a Judge or Judges of the High Court at the Presidency Towns. Section 25 of the present Bill, which is in harmony with the Letters Patent, enables the High Court to allot such part of its extraordinary original civil jurisdiction, civil and criminal appellate jurisdiction and jurisdiction as a Court of revision or reference as the High Court may consider can be more conveniently exercised at the places mentioned in the Commission than at its usual place of sitting.

21. The changes we propose to effect in the Criminal Procedure of the High Court exercising jurisdiction at the Presidency Towns are not, apart from the abolition of the Grand Jury, of great importance. We have provided that all charges of capital crimes, and all the cases which the High Court may, on account of their difficulty, or for any other reason, direct to be so tried, shall be tried by Special Jury, a mode of trial now only in use for misdemeanors and of uncertain application since the enactment of the Indian Penal Code. The Special Jurors will be exempt from service on Common or Petty Juries, and the Special Jury list will, in the first instance, comprise all gentlemen now entitled to the privilege of serving on Grand Juries. But as we trust that, when the machinery of the Bill is in full operation, it will not exhaust the Petty Jury list to the extent to which it is now exhausted by the Grand Jury, we have provided that no addition shall be made to the Special Jury list until by death, departure from India, or other loss of qualification, the Special Jurors shall be reduced to two hundred, which number we think sufficient for the Special Jury cases likely to be tried in the Presidency Towns. When the number of Special Jurors is below two hundred, we provide that the full number shall be completed by selection on the part of some Officer nominated by the Chief Justice, regard being had to property, education, character, and intelligence. It may be remarked that, as we prescribe a maximum number of Special Jurors, no fixed qualification can be assigned, and the power vested in the selecting Officer must be entirely discretionary.

22. Finally, we desire to observe that, whether a trial under this Bill takes place in the Presidency Towns or in the Mofussil, a Judge of the High Court, if upon perusal of the depositions he considers any charge to be clearly unsustainable, will have the power to make an entry to that effect. Such an entry will operate in the Presidency Towns as a *nolle prosequi*, and will have practically the same result in the Mofussil. Moreover, if no further charge against the same person on the same grounds be preferred in three years, he will be placed in the same position as if he had been actually acquitted. The power of making such an entry we regard as an unobjectionable substitute for the functions of a Grand Jury.

23. Mr. Bullen individually prefers, for the trial of European British subjects in the Mofussil, an unanimous Jury of seven, consisting wholly of Europeans or Americans, to the Jury which the Committee has agreed to recommend.

24. We recommend that the Bill as amended by us be passed, but that it be previously republished with this Report in the *Official Gazette*.

H. S. MAINE.
C. BEADON.
R. NAPIER.
H. B. HARINGTON.
W. GREY.
H. L. ANDERSON.
J. N. BULLEN.
W. MUIR.
R. N. CUST.
*The 15th February* 1865. D. COWIE.

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## AMENDED BILL.

No. 19 OF 1864.

*A Bill to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.*

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, in the exercise of their original criminal jurisdiction, and also to provide for the exercise by such Courts of original criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit: It is enacted as follows:—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice."

"Chief Justice" shall include an Officiating Chief Justice.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India."

"British India" denotes the territories which are or may become vested in Her Majesty under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore and Malacca.

Gender and Number.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

*Of Charges where the accused is committed in a Presidency Town.*

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

**3.** Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which according to law may be dealt with as if it had been committed within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he will, to amend, alter or add to the charge.

**4.** The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter or add to the same.

Charge with amendments, alterations or additions (if any) to be recorded.

The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

**5.** The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same not exceeding one anna for each folio of ninety words.

Effect of charge.

**6.** Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Provision of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

**7.** In Act XVIII of 1862 *(to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature)*, the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

*Nolle prosequi* on unsustainable charge.

**8.** When any such charge shall have been recorded in the High Court as aforesaid and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

*Of Grand Juries.*

After commencement of this Act, Grand Jury not to be summoned.

**9.** From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors unless they have been summoned before the commencement of this Act.

**10.** No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

*Of Juries in the Presidency Towns.*

Certain trials to be held before Special Jurors.

**11.** Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year to be taken as giving the first list of Jurors and Special Jurors.

**12.** The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

**13.** The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving in Common Juries.

**14.** All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

**15.** The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall before the fifteenth day of April, which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent 15th day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Officer preparing the lists to have full discretion: no appeal from his decision.

**16.** The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Lists of Jurors to be published in the Gazette.

**17.** The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Jurors and Special Jurors to be numbered for each Sessions.

**18.** Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

*Of Challenges of Jurors in the Presidency Towns.*

Challenges.

**19.** A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array; and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the juror.

(3.) A previous conviction of the juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

**20.** The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge the juror shall be set aside.

High Court to retain its present jurisdiction as to jurors in Presidency Towns except as altered by this Act.

**21.** Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging and service of jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new Rules made under this Section.

*Of Sittings under a Commission.*

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

**22.** From and after the commencement of this Act, whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of

any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of such High Court to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

**23.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the place and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

**24.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power and authority, as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

**25.** The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference which it is competent to exercise at its usual place of sitting as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall travel.

**26.** Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and the limits of such districts or places shall be defined by notification in the Official Gazette.

Power to appoint an Associate Judge.

**27.** The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary inquiry without the local limits of the original criminal jurisdiction.

**28.** Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court, to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High

Court shall request information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent, to the Clerk of the Crown, shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Criminal Procedure Code.

**29.** The charge, whether it shall or shall not have been amended, altered, added to under the last preceding Section shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge; but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to, as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

**30.** Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail of the High Court in such usual place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall if necessary cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

**31.** It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall if not bailed be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section to be given, and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section shall be dealt within all respects, as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section.

Jurisdiction over European British subjects tried under Commission.

**32.** When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

**33.** The Judge of the High Court acting under such Commission in the place and manner therein mentioned and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure

and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

**34.** All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

**35.** Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subject.

**36.** If the person charged shall be a European British subject and shall so require before the jury shall be empannelled, the majority the jurors shall consist of of Europeans or Americans. If such a jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Number of jury requisite to verdict of guilty.

**37.** On every trial mentioned in the thirty-fourth Section of this Act, the jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Acts not of a judicial nature may be done by Clerk of the Crown.

**38.** During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

**39.** So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

**40.** So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

**41.** When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the

Procedure where no such question reserved.

said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Save as aforesaid Criminal Procedure Code to apply to juries under Commission.

**42.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

High Court Judge may direct Associate Judge to try any one triable under Commission not an European British subject.

**43.** If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

**44.** From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Commencement of Act.

**45.** This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

Act not to extend to Straits' Settlement.

**46.** This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore and Malacca.

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in two weeks :—

No. 26 OF 1864.

*A Bill to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.*

Preamble.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of Officers appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta ; it is enacted as follows :—

**1.** In this Act :—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Justice of the Peace."

"Justice of the Peace" includes any person duly appointed under the Statute 33 Geo. III, cap. 52, Section 151, to act as a Justice of the Peace within the Provinces of Bengal, Behar, and Orissa, and also any person duly appointed under the Statute 2 and 3 William IV, cap. 117, Section 1, to act as a Justice of the Peace within the town of Calcutta.

"Magistrate."

"Magistrate" denotes a Magistrate of Police appointed under Act XIII of 1856.

"Superintendent of the Presidency Jail."

"Superintendent of the Presidency Jail" denotes any Officer appointed under this Act to receive and keep prisoners.

Enactments repealed.

**2.** Sections 47, 48, 49, 50, 51 and 52 of Act XVIII of 1862 (*to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction*), are hereby repealed.

After commencement of Act no one to be committed to Sheriff.

And High Court not to issue writs to Sheriff.

**3.** After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison ; and the Judges, of the High Court in the exercise of their original Criminal jurisdiction shall not award and issue writs to the Sheriff of Calcutta commanding him to arrest and seize the bodies of offenders, and bring them to such place and them to keep until they shall be delivered by due course of law.

**4.** It shall be lawful for the Government of Bengal to appoint an Officer who shall, under the name of Superintendent of the Presidency Jail, have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Government of Bengal may appoint Superintendent of Presidency Jail.

**5.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment, simple or rigorous, or to death, such person shall be delivered to the Superintendent of the Presidency Jail together with the warrant of the said Court, and such warrant shall be executed by such Officer, and returned by him to the High Court when executed.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

**6.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, such person shall be delivered for intermediate custody to the Superintendent of the Presidency Jail; and from such delivery the imprisonment of such person shall have effect in accordance with the provisions of Act XXXV of 1860 *(relating to the transportation of convicts)*.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

**7.** Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment with or without hard labour, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, such person shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of the Court.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

**8.** The Superintendent of the Presidency Jail shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

**9.** Persons committed by a Justice of the Peace for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

**10.** Every person arrested in pursuance of a warrant of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay)*, shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the Superintendent of the Presidency Jail; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

**11** The Superintendent of the Presidency Jail shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Superintendent to detain such persons according to exigency of warrant.

**12.** From and after the passing of this Act, all persons confined in the House of Correction, or the Great Jail of Calcutta, whether under the sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the Superintendent of the Presidency Jail according to the terms of the warrants under which they have been respectively committed to custody.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

**13.** Any warrant of commitment under Regulation III, 1818, of the Bengal Code, may be directed to the Superintendent of the Presidency Jail in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 *(for the better custody of State Prisoners)* and Act III of 1858 *(to amend the Law relating to the arrest and detention of State Prisoners)*.

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

**14.** The provisions contained in the Statute 11 Vic., cap. 21 *(An Act to consolidate and amend the laws relating to Insolvent Debtors in India)*, relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the Superintendent of the Presidency Jail, or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vic. cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

**15.** This Act shall come into operation on the day of 1865.

Commencement of Act.

**16.** The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

Act may be extended to Madras and Bombay.

STATEMENT OF OBJECTS AND REASONS.

The primary object of the present Bill is to remove the Great Jail of Calcutta from the control of the Sheriff, and to transfer it to that of the Government of Bengal.

The Sheriff of Calcutta, who has at present the exclusive control of the whole Jail, except the House of Correction, is not responsible to Government for the proper discharge of his duties. Much inconvenience has hence resulted. The Commissioner of Police, who manages the House of Correction, does not reside within the limits of the Jail, and cannot therefore give it the requisite personal attention. It is moreover desireable to provide that the Jail should be inspected more scientifically and regurlarly than can be done by the Visiting Justices, on whom that duty now devolves. The present Bill proposes to supply these defects by relieving the Sheriff and the Commissioner of Police from all concern with the Jail, and by placing the Officer in charge of it, as in the case of Jails in the Mofussil, under the authority of the Inspector-General and through him of the Government of Bengal.

Power is given to the Governors in Council of Madras and Bombay respectively, to deal in like manner with the Jails of Madras and Bombay.

CECIL BEADON.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

## HOME DEPARTMENT.

No. 1831.

*Fort William, the 27th February* 1865.

NOTIFICATIONS.

Lieutenant B. H. Davidson, of the 3rd Battalion of Her Majesty's 60th Rifles, is appointed to officiate as Assistant Superintendent of Police in British Burmah, vice Captain Fryer, transferred to the Commission.

Lieutenant Davidson joined his appointment on the 3rd February 1865.

No. 1974.

The Reverend A. Robinson, Junior Chaplain on the Bengal Establishment, returned to India, arriving at Bombay on the 11th instant. His services are placed at the disposal of the Government of the North-Western Provinces.

No. 1975.

*The 28th February* 1865.

Notification No. 1512, dated the 17th instant, attaching Mr. W. H. Thompson, of the Civil Service, to the Bengal Division of the Presidency of Fort William, is cancelled.

No. 1976.

The Governor-General in Council is pleased to invest the under-mentioned Extra Assistant Commissioner in the Central Provinces with the powers of a Magistrate, described in Chapter II, Section 22 of Act XXV of 1861 :—

Mr. A. Collis, Extra Assistant Commissioner, Doomagoodium, Sironcha District.

No. 1977.

The Governor General in Council is pleased to invest Luchmun Rao Mohitea with the powers of a Subordinate Magistrate of the 2nd Class, described in Chapter 2, Section 22 of Act XXV of 1861, as long as he shall officiate as Tehsildar of Chanda in the Central Provinces.

No. 1978.

*The 1st March* 1865.

Dr. J. C. Corbyn, appointed Inspector of Prisons in Oudh by G. O. No. 4, dated 4th January 1865, received charge of his office from Dr. H. M. Cannon on the forenoon of 16th February 1865.

Dr. H. M Cannon, Civil Surgeon of Lucknow, officiated as Inspector of Prisons in Oudh, in addition to his regular duties, from the forenoon of the 2nd January to the forenoon of 16th February 1865.

No. 1979.

The under-mentioned specifications of inventions have been filed, under the provisions of Act XV of 1859, in the Office of the Secretary to the Government of India, in the Home Department. Copies have been sent to one of the Secretaries to each of the Governments of Bengal, Fort St. George, Bombay, and the North-Western Provinces. A copy of every specification is open at all reasonable hours at the Office of the Secretary to the Government of India, in the Home Department, to public inspection, upon payment of a fee of one Rupee. A certified copy of any specification will be given to any person requiring the same on payment of copying :—

*No.* 221.—William Maylor, of Beypore, in the Presidency of Madras, for husking, peeling, and removing the parchment and cherry skins from coffee berries.

*No.* 223.—Edward Brown Wilson, Engineer, No. 10, Strand, in the County of Middlesex, for improvements in furnaces and fire-places.

*No.* 226.—John Marshall, Civil and Mechanical Engineer, Pentonville Road, in the County of Middlesex, for improvements in the expression of oil from oil-yielding substances, and in the production of oil cake and other residuary matters.

*No.* 227.—David Wilson, Merchant of Colombo, Ceylon, for improvement in Machines for manufacturing or separating coir fibre from the husk of the cocoanut.

*No.* 216.—George Alfred DePenning, Civil Engineer, Calcutta, for improvements in Presses for compressing fibres and other materials.

No. 1980.

*The 2nd March* 1865.

The Governor General in Council is pleased to permit Mr. W. J. Allen to resign the Civil Service from the 9th instant.

No. 1981.

The Governor General in Council is pleased to permit Mr. T. C. Trotter to resign the Civil Service from the 6th instant.

No. 1982.

Mr. Wilton Oldham, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year from the date of embarkation.

No. 1983.

Mr. Whitley Stokes received charge of the Office of Assistant Secretary to the Government of India, in the Home Department (Legislative), on the forenoon of the 24th ultimo, from Mr. A. G. Macpherson, from whom he will continue to officiate until further orders.

No. 1984.

*The 3rd March* 1865.

The Hon'ble Sir Barnes Peacock, Kt., returned to the Presidency on the 13th ultimo, and resumed his seat as Chief Justice of the High Court of Calcutta on the following day.

No. 1985.

The Hon'ble Arthur George Macpherson took his seat as Officiating Puisne Judge of the High Court on the forenoon of the 24th ultimo.

No. 1986.

Mr. Philip Sandys Melvill, B. C. S., has reported his departure from India per S. S. "Carnatic," which vessel was left by the Pilot at sea on the 14th ultimo.

No. 1987.

The under-mentioned Officer of the Central Provinces Police has passed the examination prescribed for Junior Police Officers :—

Lieutenant T. E. Vandergucht, Officiating District Superintendent of Police.

No. 1988.

Major F. L. Magniac, Judge of the Small Cause Court at Nagpore, in the Central Provinces, has obtained one month's preparatory leave of absence from the 25th February last, or such date as he may avail himself of the same to proceed to Bombay, for the purpose of appearing before a Medical Board, with a view to obtaining leave on medical certificate to England.

No. 1989.

The Governor General in Council is pleased to extend the provisions of Section 34 of Act V of 1861 to the Towns of Khundwa, Burwai, Mundlaisur, Boorhanpore, and Pundhana, in the Nimar District.

No. 1990.

Mr. E. Richardson, Extra Assistant Commissioner, 1st Grade, British Burmah, is invested with the powers of a Subordinate Magistrate of the 2nd Class, as described in Section 22 of the Code of Criminal Procedure.

No. 1991.

The services of Mr. J. M. Scott, B. A., Civil Engineer, who is employed in the Electric Telegraph Department, are placed at the disposal of the Government of Bengal.

No. 1992.

The under-mentioned promotions in the Great Trigonometrical Survey are sanctioned with effect from the 1st of January last :—

Mr. Michael Charles Hickie... } From Senior Sub Assistant to the Junior grade of Civil 2nd Assistant.
Mr. Angello D'Souza ... }

No. 1993.

ERRATA.

In Notification No. 826, dated 25th January last, for Mr. G. E. Burr, read Mr. G. E. Barr.

In Notification No. 831, dated 26th of January last, for Mr. W. H. Patterson, read Mr. W. H. Pattison.

No. 1996.

The Governor General in Council is pleased to re-attach to the North-Western Provinces, the Punjab, and Oudh, Mr. F. S. Wigram, of the Civil Service, who returned from furlough on the 2nd instant.

E. C. BAYLEY,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

REVENUE.

No. 102.

*Fort William, the 1st March* 1865.

Pundit Bhaskur Rae is appointed to be an Extra Assistant Commissioner in the Settlement Department of the Province of Oudh, as a temporary arrangement.

GENERAL.

No. 459.

*The 28th February* 1865.

Major C. Baldwin, Deputy Commissioner of Nursingpore, in the Central Provinces, has obtained privilege leave of absence for two months, from the 1st March 1865, or from the subsequent date on which he may avail himself of it.

No. 461.

The Governor General in Council is pleased to sanction the following promotions in British Burmah :—

Mr. G. E. Barr, Extra Assistant Commissioner, 1st Grade, and Officiating Assistant Commissioner, 3rd Grade, to be Assistant Commissioner, 3rd Grade, from 3rd January 1865.

Mr. F. Motley, Extra Assistant Commissioner, 1st Grade, on Rs. 350 a month, to be Extra Assistant Commissioner, 1st Grade, on Rs. 400 a month, from the above date.

Mr. E. Richardson to be Extra Assistant Commissioner, 1st Grade, on Rs. 350 a month, from the date he enters on the duties of his office.

No. 463.

Mr. J. Treacy is appointed to be Senior Revenue Settlement Officer, and Supernumerary Assistant Commissioner, 2nd Grade, in British Burmah, with effect from the 31st January 1865.

No. 466.

With reference to G. O. No. 180, dated 24th ultimo, Assistant Surgeon S. T. Heard assumed medical charge of the Nuggur Division, in Mysore, from Surgeon Oswald, on the 13th January 1865.

No. 474.

*The 1st March* 1865.

Mr. H. Gibson, Assistant Commissioner in Oudh, is transferred temporarily to the Settlement Department of that Province, to officiate for Lieutenant W. E. Forbes, on leave.

No. 476.

Major B. T. Reid is appointed to be 1st Class Deputy Commissioner of Darjeeling, in succession to Mr. Wake.

No. 487.

*The 2nd March* 1865.

With reference to G. O. No. 112, dated 19th January last, Surgeon A. A. Renton, M. D., assumed the duties of Durbar Surgeon at Mysore on the 3rd February 1865.

No. 488.

Syed Abdool Hakeem, Extra Assistant Commissioner of Hurdui, has obtained privilege leave of absence for three months, from the 1st instant, or from the subsequent date on which he may avail himself of it.

No. 490.

Captain J. T. Bushby, Assistant Commissioner, West Berar, has obtained privilege leave of absence for three months, from the 1st instant, or from the date on which he may avail himself of it.

No. 492.

The services of the under-mentioned Officers are placed at the disposal of the Chief Commissioner of Oudh, for employment in that Province:—

Mr. E. B. Thornhill, C. S.
" J. Woodburn, C. S.
" J. M. C. Steinbelt, C. S.
" C. W. McMinn, C. S.
" J. C. Williams, C. S.
" A. F. Millett, C. S.

No. 495.

The privilege leave granted to Major W. G. Cumming, Bheel Agent, and Political Assistant, Sirdarpore, in G. O. No. 1275, dated 17th November 1864, is extended to the 31st March.

No. 497.

Mr. H. W. Beddy, Deputy Commissioner of Sandoway, in British Burmah, made over charge of his Office to Lieutenant W. C. Plant, on the forenoon of the 26th January 1865.

No. 500.

*The 3rd March* 1865.

His Excellency the Governor General in Council is pleased to grant Mr. E. H. Harrison, Assistant Commissioner of Goordaspore, leave of absence on medical certificate for twelve months, to proceed to Europe, from such date as he may avail himself of it.

No. 507.

The Governor General in Council having been pleased to permit Assistant Surgeon G. N. Cheke to continue in medical charge of the Nipal Residency, the Notifications marginally noted are cancelled.

G. O. No. 189, dated 25th Jan. 1865.
G. O. No. 362, dated 13th Feb. 1865.

No. 510.

Lieutenant W. E. Forbes, Assistant Settlement Officer in Oudh, has obtained leave of absence on medical certificate for one year, to proceed to the Hills north of Deyrah or to the Neilgherries.

A. COLVIN,
*Offg. Under Secy. to Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 1083.

*Fort William, the 27th February* 1865.

NOTIFICATIONS.

Mr. J. L. Lushington to be Deputy Auditor and Accountant General, Bombay, in succession to Mr. S. D. Birch, from the 28th instant, or from the date of Mr. Birch's retirement.

No. 1189.

*The 3rd March* 1865.

Mr. W. W. Crawford, Chief Assistant in the Office Establishment of the Deputy Auditor and Accountant General, N. W. Provinces, has been allowed one month's privilege leave from the 1st instant, making over charge of his duties to the Second Assistant, Mr. Anthony.

No. 1193.

In continuation of Notification No. 415, dated the 20th January last, the following Statement of Cash Balances, as reported up to this date, in the Government Treasuries in India, at the close of the month of December 1864, contrasted with that of the previous years, is published for general information:—

| According to the present limits of the several Governments. | 1862. December. | 1863. December. | 1864. December. |
|---|---|---|---|
| | Rs. | Rs. | Rs. |
| Government of India... | 5,88,16,905 | 3,20,99,062 | 1,42,99,098 |
| Bengal ... | 1,84,70,464 | 1,86,25,314 | 1,63,89,849 |
| N. W. Provinces ... | 3,47,11,072 | 3,20,50,495 | 2,59,43,248 |
| Punjab ... | 1,18,45,313 | 1,14,54,059 | 1,35,88,128 |
| Bombay ... | 3,06,51,204 | 1,79,54,770 | 1,72,31,675 |
| Central Provinces ... | 46,43,044 | 37,24,485 | 38,60,085 |
| Deccan ... | 14,29,865 | 22,97,921 | 7,74,041 |
| Madras ... | 2,27,68,473 | 3,10,79,704 | 1,96,96,963 |
| Total ... | 18,33,36,340 | 14,92,85,810 | 11,17,83,087 |

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 25th February* 1865.

*No.* 204 *of* 1865.—The services of Assistant Surgeon T. P. Wright, in medical charge of the 38th (the Agra) Regiment Native Infantry, are placed at the disposal of the Government of Bengal.

*The 27th February* 1865.

*No.* 205 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Major James Tickell, of the Bengal Staff Corps. | For 20 months. |

*No.* 206 *of* 1865.—Captain W. R. Tucker, of the Royal Engineers (now employed in the Department of Public Works), is allowed an extension of leave from the 10th to the 21st December 1864, the date on which he reported his return to Bengal from sick leave to Europe.

*The 28th February* 1865.

*No.* 207 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps, with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant (Brevet Captain) John Palmer Turton, of the late 26th Regiment Native Infantry, Wing Officer, 4th Goorkha Regiment. | 19th February 1861. |
| Lieutenant Henry Gordon Waterfield, of the late 34th Regiment Native Infantry, Adjutant, 8th Regiment Native Infantry. | 19th March 1861. |
| Lieutenant Charles John Walter, of the General List, Infantry, Doing-duty Officer, 8th Regiment Native Infantry. | 9th September 1864. |

*No.* 208 *of* 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent staff employ, to be Captain from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Lieutenant (Brevet Captain) J. P. Turton. | 19th February 1865. |

*No.* 209 *of* 1865.—With reference to Government General Order No. 165 of the 2nd March 1863, the name of the under-mentioned Officer, who retired from the service under the Annuity Scheme of 1861, is removed from the list of the Regimental Lieutenant Colonels of Infantry :—

| Rank and Name. | Remarks. |
|---|---|
| Lieutenant Colonel (Major General, Retired List) R. Houghton. | By death of Colonel (Lieut. Genl.) Matthew Coombs Paul, Bengal Infantry. |

*No.* 210 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

PUNJAB IRREGULAR FORCE.

*Corps of Guides.*

Lieutenant A. J. Nicholson, Officiating Doing-duty Officer, to be Doing-duty Officer, vice Lieutenant W. A. Lawrence, appointed to another situation.

Lieutenant A. H. Davis, of the General List, Bombay Infantry, to officiate as Doing-duty Officer until further orders.

*No.* 211 *of* 1865.—The services of Lieutenant F. P. Spragge, of the Royal Engineers, are placed at the disposal of the Public Works Department.

*No.* 212 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Lieutenant Colonel George Jackson, of the Bengal Staff Corps, Commandant, 2nd Bengal Cavalry. | For 20 months. |

*No.* 213 *of* 1865.—The following promotions by Brevet are made under the operation of G. G. O. No. 632 of the 4th of August 1864, subject to Her Majesty's approval :—

BREVET.

| Corps. | Rank and Names. | Date from which entitled to the rank of Lieutenant Colonel. |
|---|---|---|
| | *To be Lieutenant Colonels.* | |
| Cadre of late 26th N. I. | Major Folliott Walker Baugh ... ... ... | 13th January 1865. |
| Cadre of late 38th N. I. | Ditto Henry Richard Shelton ... ... ... | 13th " " |
| Cadre of late 45th N. I. | Ditto Alexander Sutton Osborn Donaldson ... | 24th " " |
| Cadre of late 47th N. I. | Ditto William Claye Watson ... ... ... | 24th February " |
| | *To be Majors.* | Date from which entitled to the rank of Major. |
| Cadre of late 2nd E. B. Fusiliers. | Captain William Conrad Hamilton ... ... | 5th January 1865. |
| Staff Corps ... | Ditto John Mackillop Mackenzie ... ... | 18th " " |
| Cadre of late 39th N. I. | Ditto Gordon Cavenagh ... ... ... | 18th " " |
| Cadre of late 4th N. I. | Ditto Robert Stothert ... ... ... | 18th " " |
| Cadre of late 24th N. I. | Ditto Richard Chaloner Lindsey ... ... | 11th February " |
| Cadre of late 5th Eur. L. Cavy. | Ditto Richard Jenkins ... ... ... | 20th " " |
| | *To be Captains.* | Date from which entitled to the rank of Captain. |
| Staff Corps ... | Lieutenant William Henry Joseph Lance (Captain in the Staff Corps.) | 18th September 1861. |
| Cadre of late 52nd N. I. | Ditto Alexander Cockburn ... ... | 20th January 1865. |
| Cadre of late 5th Eur. Regt. | Ditto Lancaster Byron James Davies ... ... | 13th February 1865. |

*No.* 214 *of* 1865.—The under-mentioned Surgeon of the Bengal Medical Department is promoted to the rank of Surgeon Major, under the provisions of Government General Order No. 507 of the 20th June 1864, subject to Her Majesty's approval :—

| Rank and Name. | From what date. |
|---|---|
| Surgeon Francis Turnbull, M. D. | 11th February 1865. |

*The 1st March* 1865.

*No.* 215 *of* 1865.—The under-mentioned Officer has reported his return from England :—

| | *Date of arrival at Bombay.* |
|---|---|
| Lieutenant M. P. Moriarty, of the late 41st Regiment Native Infantry, Adjutant, 3rd Infantry, Hyderabad Contingent. | 17th February 1865. |

*The 1st March* 1865.

*No.* 216 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment :—

PUNJAB IRREGULAR FORCE.

*5th Infantry.*

Lieutenant C. McK. Hall, of the General List, Infantry, to be Quarter Master, to fill an existing vacancy.

*The 2nd March* 1865.

*No.* 217 *of* 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names :—

| | |
|---|---|
| Major H. Hayley, of the Bengal Staff Corps, on leave for twenty months, Government General Order No. 86 of the 20th January 1865 ... | "Bengal," 25th January 1865. |
| Lieutenant J. M. Trotter, of the General List, Infantry, Doing-duty officer, 24th (Punjab) Regiment Native Infantry, on leave for twenty months, Government General Order No. 79 of the 19th January 1865 .. | |
| Lieutenant Colonel (Brevet Colonel) Sir H. B. Edwardes, K. C. B., of the Bengal Infantry, Commissioner and Superintendent of the Umballa Division, on leave for twenty months, Government General Order No. 117 of the 2nd February 1865 ... | "Erymanthe," 3rd February 1865. |
| Captain R. C. Low, of the late 4th European Light Cavalry, 2nd in Command and Squadron Officer, 13th Bengal Cavalry, on leave for twenty months, Government General Order No. 8, of the 4th January 1865 ... | "Alnwick Castle," 9th February 1865. |
| Lieutenant E. C. Steer, of the late 3rd Madras European Regiment, on leave for twelve months, Government General Order No. 68 of the 17th January 1865 .. | |
| Lieutenant Colonel R. Maclagan, of the Royal Engineers, Chief Engineer and Secretary to the Government of the Punjab, Department of Public Works, on leave for fifteen months, Government General Order No. 144 of the 8th February 1865 ... | "Simla," 10th February 1865. |
| Major H. Mills, of the Bengal Staff Corps, Sub-Assistant Commissary General, on leave for twenty months, Government General Order No. 142 of the 7th February 1865 ... | |
| Major J. R. A. S. Lowe, of the Bengal Staff Corps, Deputy Assistant Commissary General, on leave for twenty months, Government General Order No. 138 of the 6th February 1865 .. | |
| Captain J. D. Laurie, of Her Majesty's 34th Foot, District Inspector of Musketry, 5th Division, on leave for twenty months, Government General Order No. 142 of the 7th February 1865 ... | |
| Lieutenant C. D. P. Nott, of the late 4th European Regiment, on leave for twenty months, Government General Order No. 144 of the 8th February 1865 ... | "Simla," 10th February 1865. |
| Surgeon J. J. Clarke, of the Medical Department, in Medical charge, 7th Bengal Cavalry, on leave to Australia for two years, Government General Order No. 69 of the 17th January 1865 .. | |
| Surgeon J. Wilson, of the Madras Medical Establishment, on leave for twenty months, Government General Order No. 138 of the 6th February 1865 ... | |
| Lieutenant A. Andrew, of the Bengal Staff Corps, on leave to Europe on urgent private affairs, for six months, without pay, Government General Order No. 125 of the 3rd February 1865. ... | "Result," 15th February 1865. |
| Surgeon Major C. Archer, M. D., of the Medical Department, on leave for twenty months, Government General Order No. 103 of the 26th January 1865 ... | 19th February 1865. |
| Lieutenant Colonel H. C. James, of the Bengal Staff Corps, Private Secretary to the Hon'ble the Lieutenant Governor of Bengal, on leave for twenty months, Government General Order No. 142 of the 7th February 1865. | "Nemesis," 25th February 1865. |
| Major H. Lane, of the late 5th European Light Cavalry, Brigade Major, Rawul Pindee, on leave for twenty months, Government General Order No. 165 of the 13th Feb. 1865 | |
| Captain and (Brevet Lieutenant Colonel) P. H. K. Dewaal, late 34th Native Infantry, on leave for twenty months, Government General Order No. 124 of the 3rd February 1865 .. | |
| Surgeon Major T. C. Hutchinson, of the Medical Department, on leave for twenty months, Government General Order No. 165 of the 13th February 1865 ... | |
| Conductor T. Wilkins, of the Ordnance Commissariat Department, on furlough for three years, Government General Order No. 93 of the 24th January 1865 ... | |

*No.* 218 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Lieutenant Osmond Barnes, of the Bombay Staff Corps, 2nd Squadron Officer, 10th Bengal Cavalry. | For 20 months. |

| | |
|---|---|
| Assistant Surgeon Thomas Edmondston Charles, M. D., of the Medical Department, Professor of Midwifery, Medical College Hospital. | For 20 months, under the new Regulations. |

*No.* 219 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Lieutenant William Hampton, of the Invalid Establishment. | For 3 years, under the old Regulations. |

*No.* 220 *of* 1865.—The under-mentioned Non-Commissioned Officer and Soldiers of Her Majesty's service are permitted to reside and draw their pay in India as out-Pensioners of Chelsea Hospital, according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of their pensions :—

Sergeant Walter Brett, of No. 3 Battery, 22nd Brigade, Royal Artillery.

Gunner Thomas Crabtree, of No. 5 Battery, 24th Brigade, Royal Artillery.

Gunner James McMahon, E—C. Royal Horse Artillery.

*No.* 221 *of* 1865.—Sub-Conductor G. Verini, lately attached to the Army Clothing Agency, who proceeded to Europe on leave under Government General Order No. 239 of the 2nd April 1863, has been admitted to a pension as Sergeant at 2 shillings per diem, payable in Europe.

*No.* 222 *of* 1865.—The following temporary promotions are made in the Warrant Grades :—

*Army Commissariat Department.*

| | |
|---|---|
| Conductor Horatio Boardman Steward, to act as Deputy Assistant Commissary.<br>Sub-Conductor David Hutchins, to act as Conductor.<br>Sergeant Joseph Rawdon, to act as Sub-Conductor. | From the 18th January 1865, during the absence on sick leave to Europe of Lieutenant A. B. Fox, Deputy Assistant Commissary, or until further orders. |

*No.* 223 *of* 1865.—With the sanction of the Right Hon'ble the Secretary of State for India, His Excellency the Governor General in Council is pleased to notify that Officers of the Unattached List, will, in special cases, be allowed exemption from the strict operation of the rule under which no Officer can hold a staff appointment who has not passed the prescribed examination in the Native languages.

In every case in which it is proposed to appoint an unpassed Unattached Officer to a staff situation, the previous sanction of Government is to be obtained, and it should be satisfactorily shown that the Officer whom it is proposed to exempt from application of the rule is specially fitted for the situation which it is desired to confer upon him.

It will also be required in every case that the Officer shall have passed a colloquial examination.

*The 3rd March* 1865.

*No.* 224 *of* 1865.—The under-mentioned Soldier is admitted to pension as specified opposite to his name :—

| | |
|---|---|
| Gunner Jeremiah Smith, of No. 1 Battery Bengal Artillery. | 1*s.* (one shilling) per diem, payable in Europe. |

*No.* 225 *of* 1865.—Officiating Sub-Conductor Edward McCarthy, of the Army Commissariat Department, appointed by Government General Order No. 464 of the 14th July 1863, is remanded from his present grade to the rank he held previous to his transfer to the Commissariat Department, and his services are placed at the disposal of His Excellency the Commander-in-Chief.

*No.* 226 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain (Brevet Major) Mangles James Brander, of the late 40th Regiment Native Infantry, Deputy Assistant Commissary General ... | For 20 months, under the new Regulations. |
| Captain Thomas George Montgomerie, of the Royal Engineers, Astronomical Assistant, Great Trigonometrical Survey of India ... | For 20 months, under the new Regulations. |

*No.* 227 *of* 1865.—The under-mentioned Officers having completed twenty years' service, six years of which were on permanent staff employ, to be Majors, from the dates specified opposite to their respective names, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

| | |
|---|---|
| Captain (Brevet Major) H. T. Macpherson, V. C. | 28th February 1865. |
| Captain (Brevet Major) E. H. Langmore. | 1st March 1865. |
| Captain E. B. Clay | ... 2nd March 1865. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

REVENUE—FORESTS.

No. 5.

*Fort William, the 28th February* 1865.

NOTIFICATIONS.

The Governor General in Council is pleased to appoint Lieutenant G. C. Sartorius, of the Bombay Artillery, to officiate as an Assistant Conservator of Forests in the Central Provinces, with effect from the date of joining.

ESTABLISHMENT.

No. 66.

Captain F. G. S. Parker, Assistant Engineer, 1st Class, and Captain W. H. Mackesy, Assistant Engineer, 2nd Class, are transferred from the

North-Western Provinces and the Punjab, respectively, to Hyderabad.

No. 67.

*The 1st March* 1865.

Mr. J. T. Robinson, Accountant, first Grade, is transferred from Bengal to the Accountant General's Office, Public Works Department, as a temporary arrangement with effect from 26th January 1865.

No. 68.

Mr. T. Davis, Accountant, third Grade, Oudh, is granted two months' privilege leave from the 1st February 1865.

No. 69.

Baboo Petumber Sing, late Deputy Superintendent, Ganges Canal, North-Western Provinces, is re-appointed to the Department of Public Works as an Assistant Engineer, first Grade, and posted to the North-Western Provinces.

No. 70.

Mr. C. Phipps, Accountant, fourth Grade, Public Works Department, British Burmah, is promoted to Accountant, third Grade, and posted to Port Blair.

Mr. Bernard Gantzer is appointed an Accountant, fourth Grade, and posted to British Burmah.

These changes have effect from 1st February 1865.

No. 71.

His Excellency the Governor General in Council is pleased to appoint Captain R. C. B. Pemberton, R. E., Executive Engineer, 2nd Class, Oudh, and Lieutenant C. H. Luard, R. E., Assistant Principal, Thomason College, to be Assistant Secretaries to the Government of India, in the Public Works Department.

Captain W. Jeffreys, R. E., will continue to be attached to the Public Works Secretariat until completion of the special duty on which Captain Pemberton is at present employed.

No. 72.

Lieutenant Colonel W. Maxwell, R. A., appointed Chief Engineer and Secretary to Chief Commissioner, Central Provinces, in Notification No. 64, dated the 23rd February 1865, was relieved of his duties as Superintending Engineer, Behar Circle, by Captain C. J. Mead, Executive Engineer, 2nd Division Grand Trunk Road, on the afternoon of the 14th February 1865.

Captain Mead will officiate as Superintending Engineer of the Behar Circle till further orders.

No. 73.

Captain C. D. Newmarch, R. E., Chief Engineer and Secretary to Chief Commissioner, British Burmah, is granted preparatory leave from the 15th January to 9th March 1865.

No. 74.

Sergeant Graham, Assistant Master, 2nd Department Thomason College, is appointed to the Public Works Department as an Overseer, first Grade, and posted to the Straits Settlement.

No. 75.

*The 3rd March* 1865.

Conductor J. Finn, Overseer, first Grade, is transferred from Mysore to the Straits Settlement, and Sub-Conductor E. Scully, Overseer, first Grade from the Straits Settlement to Mysore.

No. 76.

In continuation of Notification No. 343 of the 5th December last, Mr. W. D. Brockman, Executive Engineer, fourth Grade, assumed charge of the 1st Oudh Road Division on the afternoon of the 24th December 1864.

E. C. S. WILLIAMS, *Captain*, R. E.

*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTIFICATION.

Instances having recently occurred of Officers in the North-Western Provinces submitting requisitons for leave to Calcutta from a misinterpretation of the instructions contained in this Office Notification published in the *Gazette of India* of the 31st December 1864, page 994, and in the *Calcutta Gazette* of the 11th January 1865, page 47; it is hereby notified that those instructions were intended to apply only to Officers whose Bills have hitherto been audited by the Civil Pay Master, Fort William.

HUGH SANDEMAN,
*Accountant General, Bengal.*

*The 23rd February* 1865.

### NOTIFICATION.

It is hereby notified that, under instructions from the Government of Bengal, a Treasury has been established at the Station of Mynagooree, in the Western Dooars of Bhootan, under the control of the Deputy Commissioner for the Western Dooars.

The Officer in charge of the Treasury at Mynagooree is authorised to issue Supply Bills and Transfer Receipts, payable from other Treasuries under the operations of the existing rules, but his Treasury should be drawn upon *on the public service only*, except for remittances to the Officers and men of the Forces in the Dooars.

HUGH SANDEMAN,
*Accountant General, Bengal.*

CALCUTTA;
BENGAL ACCTT. GENL.'S OFFICE,
*The 20th February* 1865.

### NOTICE.

Mr. Robert Stewart is authorised to sign our Firm.

GLADSTONE, WYLLIE, AND CO.

CALCUTTA,
*20th February* 1865.

*Statement of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 21st February 1865.*

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent. of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 4½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount brought forward from Statement dated 9th February 1865 ... ... | 53,000 | 300 | 25,62,600 | 22,78,700 | 95,56 100 | 65,63,600 | 32,17,100 | 4,80,77,900 | 2,41,08,800 | 17,600 | 16,000 | 9,64,51,400 |
| ADD— | | | | | | | | | | | | |
| Amount enfaced at Madras, as per Registers received up to date... | ... | ... | ... | ... | 6,000 | 21,000 | 8,000 | 6,100 | 75,000 | ... | ... | 1,16,100 |
| Amount enfaced at Bombay, as per ditto ditto ditto ... | ... | ... | ... | ... | ... | ... | ... | 10,000 | ... | ... | ... | 10,000 |
| Amount enfaced at Calcutta up to date ... ... | ... | ... | ... | 700 | 9,500 | 20,000 | 2,500 | 90,600 | 8,500 | ... | ... | 1,31,800 |
| Total ... | 53,000 | 300 | 25,62,600 | 22,79,400 | 95,71,600 | 66,04,300 | 32,27,600 | 4,81,84,600 | 2,41,92,300 | 17,600 | 16,000 | 9,67,09,300 |
| DEDUCT— | | | | | | | | | | | | |
| Amount removed from the London Books, as per Registers received up to date .. | ... | ... | 3,100 | 1,000 | 7,900 | 20,100 | 1,000 | 1,70,000 | 75,200 | ... | ... | 2,78,300 |
| Total ... | 53,000 | 300 | 25,59,500 | 22,78,400 | 95,63,700 | 65,84,200 | 32,26,600 | 4,80,14,600 | 2,41,17,100 | 17,600 | 16,000 | 9,64,31,000 |

FORT WILLIAM;
LOAN OFFICE,
*The 27th February* 1865.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

No. 56.

## NOTIFICATION.

LOST, STOLEN, OR DESTROYED.

The under-mentioned Government Promissory Note deposited in the Treasure Chest of the late Cawnpore Executive Commissary Officer of this Division (Deputy Assistant Commissary General Captain W. W. Williamson), on the outbreak of the mutiny in the month of June 1857, by Sewbux Roy and Bissen Nath, late Contractors, is not forthcoming. The Note was endorsed in favor of Executive Commissariat Officer, Cawnpore, by the depositor, and has never been endorsed by him to any other party; payment of this Note and of interest thereupon have been stopped at the Loan Office, and application is about to be made to Government for the issue of a duplicate Note in favor of the Executive Commissariat Officer, Cawnpore.

No. 10402 of 1854-55, at 4 per cent., for Rs. 1,000.

S. CHALMERS, *Capt.*,
*Depy. Asst. Commy. Genl.*

CAWNPORE EXE. COMMT. OFFICE,
*The 18th February* 1865.

## NOTIFICATION.

The districts of East and West Berar having recently been sub-divided, the following Revised List of Districts comprised in the Hyderabad Assigned Districts is published for the guidance of Treasury Officers, with an intimation that Bills and Remittance Receipts cannot be drawn on the Deputy Commissioners of Maiker and Woon, who have no separate Treasuries attached to their respective Offices:—

*List of Berar Districts.*

| Name. | Designation of Officers. |
|---|---|
| Akolah District<br>Oomrawuttee ditto<br>Maiker ditto<br>Woon ditto | Deputy Commissioner. |

J. ROSE,
*Head Assistant in Charge*
*Depy. Audr. and Acctt.*
*Genl.'s Office, Hyderabad.*

OFFICE OF DEPY. AUDR. AND ACCTT. GENL., HYDERABAD,
*Bolarum, 2nd February* 1865.

## BENGAL OFFICIAL ARMY LIST.

The *Bengal Official Quarterly Army List*, No. XI, corrected in the office of the Adjutant General up to the 1st of January 1865, is now ready. Price five Rupees *in advance*, and eight annas extra if sent by post. Apply to

CALCUTTA,
6, *Bankshall Street.* O. T. CUTTER, *Publisher.*

## NOTICE.

The attention of all Treasury Officers drawing Bills on the General Treasury, Bank of Bengal, is hereby called to the necessity of despatching the advices of Bills drawn by them on the day of issue. Much inconvenience is frequently experienced owing to delay on the part of Officers in charge of Treasuries in forwarding these Letters of Advices.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

FORT WILLIAM,
*The 24th February* 1865.

## PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

*By order of the Mortgagees,*

The well-known Indigo Factories called the Allumchund Concern, at Allahabad, with valuable Talook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

## NOTICE.

The Interest and Responsibility of Mr. Walter Brett in the *Englishman* Press and Newspaper ceased on the 31st December 1864, by consent.

WALTER BRETT.
J. O'B. SAUNDERS,
*Managing Proprietor,*
*"Englishman."*

CALCUTTA,
*22nd February* 1865.

## NOTIFICATION.

Whereas much inconvenience and difficulty is experienced in the Loan and Interest Departments of this Office in tracing endorsements and receipts for interest written across the reverse of Government Promissory Notes presented for renewal or interest, notice is hereby given, with the sanction of Government, that in future cross receipts for interest will not be accepted, or further interest paid upon any note the reverse of which is filled up. The holders of notes so filled up can obtain new notes on application to the Loan Office, and on payment of the usual fees.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 9.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, MARCH 11, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

*No Official Orders or Notifications the publication of which in the* GAZETTE OF INDIA *is required by Law, or which it has been customary to publish in the* CALCUTTA GAZETTE, *will be included in the* SUPPLEMENT. *For such Orders and Notifications the body of the* GAZETTE *must be looked to.*

### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Vic., cap. 67.**

The Council met at Government House on Friday, the 3rd March 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

Major General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble J. N. Bullen.

The Hon'ble Mahárájá Vijayaráma Gajapati, Ráj Bahádur of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádur.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

CALCUTTA GREAT JAIL BILL.

The Hon'ble the LIEUTENANT GOVERNOR presented the Report of the Select Committee on the Bill to remove the Great Jail of Calcutta from the control of the Sheriff, and transfer it to that of the Government of Bengal.

REGISTRATION ACT AMENDMENT BILL.

The Hon'ble MR. TAYLOR presented the Report of the Select Committee on the Bill to amend Act XVI of 1864 (to provide for the Registration of Assurances).

The Hon'ble MR. TAYLOR also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

He said that he asked His Excellency to suspend the Rules, because it was desirable that the Bill should be passed at once, in order that the Registrar General of Bengal, and similarly the Registrars General of the other Governments, might be in a position to proceed as early as they pleased to visit the subordinate offices in the Mofussil.

The President declared the Rules suspended.

The Hon'ble MR. TAYLOR then moved that the Report be taken into consideration.

He said that on asking for leave to introduce the Bill, he had explained to the Council the primary objects of the measure. In consequence of the various suggestions to which he alluded last Friday, the scope of the Bill had been slightly enlarged in Committee, and it now contained several additional provisions. All the suggestions, from whatever quarter they came, had been carefully considered. Some had been adopted, and others the Committee had not considered it expedient to introduce into the Bill.

A Section had been added providing for the introduction of a few words into Section 10 of the Act, empowering the Registrar General, in the case of the absence of a District Registrar or of a vacancy occurring in that office, to appoint a fit person other than the Judge of the principal Court of original jurisdiction to be District Registrar. The 10th Section, as it stood, enacted that the Judge should be ex-officio District Registrar whenever a vacancy might occur in that office, which was elsewhere held by the Collector or other executive officer. Having regard, however, to the arrangements about to be made in the North-Western Provinces,

under which the Judges would be the ordinary District Registrars, it became necessary to provide for the appointment of some other person to perform the duties of the office during the occasional absence of the Judge. The first Section of the Bill accordingly provided for this.

The Committee had also added a clause to Section 13 of the Act, providing that the Section should not apply to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company should consist in whole or in part of immovable property. As a matter of fact, such shares were changing hands almost daily without registration of the instruments by which the transfer was effected, such instruments being executed however on stamped paper. There could be no question that if registration were insisted upon, it would lead to a systematic evasion of the law and have an injurious effect on public morality. As doubts had been entertained and different opinions expressed on the subject, the Committee, with the approval of His Excellency the Governor General in Council, had introduced the declaratory clause in question, exempting from compulsory registration instruments relating to such shares.

The next amendment was one for the suggestion of which he (Mr. Taylor) was indebted chiefly to his Hon'ble friend the Mahárájá of Vizianagram. Section 25 of the Act prescribed the course to be followed in regard to the registration of instruments affecting immovable property situate in more than one District. It provided that the District Registrar to whom such instrument might be presented should forward a copy to every Deputy Registrar of *another* District in which any of the property concerned might be situated, but it did not expressly say, though this was obviously intended, that he was also to furnish a copy to each Deputy Registrar in *his own District* in whose jurisdiction any of the property was situate.

The Committee had therefore repealed Section 25 and replaced it by a new Section, in which the intention of the Legislature was carried out more clearly and conveniently than before.

But the most important addition to the Bill, however, was Section 5, which provided for the recognition, under due precautions, of powers of attorney executed by persons who had left India, but which had not been executed or attested in exact compliance with the terms of Section 28 of the Act.

The 28th Section enacted that no power of attorney executed by a person residing in *British India* should be recognised for the purposes of the Act, unless it was executed in the presence of a Registrar and duly attested by him; and as regarded a power of attorney executed by a person residing *out* of India, that it should not be recognised unless executed before, and attested by, an officer of the British Government or a notary public. It had been represented that a considerable number of Europeans had returned home retaining property in India, who, before they left the country, gave general powers of attorney to their agents to sell or otherwise deal with their property. The requirements of the Act had rendered all such powers inoperative; and it was practically very difficult, even if there had been time to do so since the Act came into force, to obtain new powers, in substitution of the old ones, from persons who were in various parts of Europe, or who might possibly be travelling in some distant quarter of the globe. Then, again, it had been urged that many powers of attorney executed in Europe had been attested, sometimes by persons who were long resident of India, whose signatures were well known and easy of proof, and sometimes by the Lord Mayor of London or other similar functionary, who did not come within the definition either of an officer of Government or of a notary public. All such powers were in like manner useless under the terms of the Act. Obviously, therefore, on the ground of public convenience, such an amendment of the law was desirable as would bring all such *bonâ fide* instruments within the provisions of the Registration Act. The difficulty was adequately met by the provisions of Section 5 of the Bill, which prescribed that every power of attorney executed by persons *who were not still in India*, should be recognized for the purposes of the Registration Act, provided that within three months from the passing of the Bill (which allowed ample time for the production of all such deeds) the Registrar General, after making such enquiry as he might think proper, should have certified upon the deed, that it had been duly executed, and that, in his opinion, it might be taken as if all the requirements of the Act had been complied with. This removed all difficulties.

The Committee had not recommended any further alterations or amendments. As he said before, all the suggestions which had been made had received the most careful attention. Among those which it had not been deemed expedient to adopt, some would involve a change in the law; others, the removal of wholesome restrictions imposed by the Act which could not have been removed without impairing its usefulness; and others, again, related to matters of routine, or supposed defects in administration, the remedy for which was in the hands of the controlling officers of the Department.

The Act had been only three months in force, and among those most competent to judge, there was perfect unanimity of opinion as to its admirable working in all parts of the country. Even during the short time it had been in operation, the effect of the measure was said to have been most remarkable in restraining the production of doubtful and fraudulent instruments, and in diminishing litigation. A High Court Judge, not, it should be mentioned, on the Calcutta Bench, was reported to have said, in reference to the falling off of business in the Court, that his occupation was gone, an observation which was not, of course, intended to be taken without some reserve.

This being so—the working of the Act being in every respect so satisfactory—it would clearly be injudicious, or at all events premature, to introduce any change in the law, or to make any alteration of principle in a Bill, framed as this was, to supply a few obvious defects, and which it was desirable to pass within as short a period as possible. It would be time enough to do this when longer experience of the working of the Act should have fully shown the necessity for such changes.

The Motion was put and agreed to.

The Hon'ble Mr. Taylor also moved that the Bill as amended be passed.

The Motion was put and agreed to.

### Indian Civil Code, Chapter I.

The Hon'ble Mr. Maine moved that the Report of the Select Committee on the Indian Civil Code, Chapter I, be taken into consideration. He said—"Sir, postponing for a few moments any discus-

sion to which the amendment proposed by my Hon'ble friend Mr. Muir may give rise, I do not think that I can usefully occupy the time of the Council with observations of any length in asking it to take the report into consideration. The Select Committee has most carefully considered the Code, both in the whole and in the detail. Together with the revised Code of Civil Procedure introduced by my Hon'ble friend Mr. Harington, it has formed a principal portion of the labours of a most laborious Session. The Committee have said in their Report that they have bowed to the opinions of gentlemen so eminent and learned as the Indian Law Commissioners, and accordingly the amendments they have proposed, though not inconsiderable in number, can hardly be styled of great importance. Some few of the points discussed in Committee the Commissioners themselves would allow to be disputable. But the dissentient Members have preferred the opinion of the Commissioners to their own. Of the amendments, a few are corrections of manifest errors: others are additions to the illustrations, and will contribute greatly to the intelligibility of the new law: others are transpositions and changes of arrangement which I believe to be of much value, and will greatly increase the facility of reference. There seem to me to be only three changes which can be deemed to be at all material. The principal of these is the extension to other races besides Hindús and Muhammadans of the exemption from the Code. These are contained in the last two Sections of the Bill. Both in my Statement of Objects and Reasons, and in my remarks to the Council when introducing the Bill, I said I believed that there were many races in India, not included within the exceptions of Hindú and Muhammadan, to which it would be unwise or inexpedient to apply the new law. All the papers which have since come in have strengthened my conviction, and recently a despatch has been received from Her Majesty's Government expressing acquiescence in this view. The Secretary of State suggests that exemption from the Code should be accorded to all races of India which have definite rules of succession and inheritance. It is, however, somewhat difficult to frame a provision founded entirely on the definiteness of such rules, for want of any satisfactory criterion of definiteness. And thus, while practically giving effect to his opinion, in which we concur, we have not carried it out in precisely the way recommended.

The papers received from British Burmah show that all the Buddhistic races have a system of law definite in the same sense as the laws of the Hindús and Muhammadans—definite, that is to say, as being prescribed by their sacred books. We have therefore not hesitated to add Buddhists to Muhammadans in the exempting Section. We have further provided for the contingent exemption of other races by empowering the Governor General in Council, either retrospectively from the passing of the Act, or prospectively, to exempt from the operation of the whole or any part of the Act the members of any race, sect or tribe in British India. Whether the Parsees will have to be exempted under this Section by order of your Excellency in Council will depend on the result of the impending discussion on the two Bills in charge of my Hon'ble friend Mr. Anderson.

Sir, we have further altered the title of the Bill. The Secretary of State, speaking apparently on behalf of the Law Commissioners, has suggested that they may not wish this part of the Code to be its first Chapter. Now nothing can be more capricious than the arrangement and classification adopted by existing systems of jurisprudence, and I can quite conceive a Code of laws which had a Chapter on Succession for its first Chapter. But the Commissioners are of course entitled to settle the order of Parts in the body of jurisprudence which they have prepared; and I can quite understand that they may wish at all events to place all their definitions at the beginning of their Code. We therefore propose to change the title "Indian Civil Code, Chapter I," and to call the Act "The Indian Succession Act, 1865."

We have also made a not immaterial alteration in the system of probate proposed by the Commissioners. Their scheme not only provides that the Zillah Judge shall be the principal Judge of Probate in his District, but that he shall have power in non-contentious cases to delegate his authority to a functionary called the District Delegate. This latter machinery was probably provided in the expectation that the Code would have a much wider operation than is likely at first to belong to it. We do not think that the additional labour thrown on the Zillah Judge by the granting of probate and letters of administration under this Code will, for a time at least, be considerable. Moreover—though it is a point on which I cannot myself express a confident opinion—those Members of the Select Committee who are most familiar with the Mofussil believe that the power cannot safely be confided to any lower authority than the Zillah Judge, and are afraid that any other arrangement will afford facilities for forgery and fraud.

I may add that we have saved the powers of the Administrator General in their plenitude, and have added a schedule of fees payble when probate or administration is taken out, or when a caveat is lodged.

Sir, though we thus propose to contract greatly the primary sphere of the operation of this new law, I do not feel inclined to modify the language which I employed when I introduced the Bill to the Council, as to its great importance to India. To the European community it will prove, I believe, an unmixed advantage, and will even deliver them from dangers which perhaps they do not quite appreciate, but which I regard as imminent and serious. But I must describe it as scarcely less of a boon to the rest of the people of India. Sir, insensibly and gradually, large sections of the Hindú and other communities have acquired the power of testamentary disposition, which probably, and indeed certainly, was not enjoyed by them under their ancient usages. Now, there is no stronger stimulant to civilization than the liberty of testation; but I am afraid that there is a heavy set-off against its advantage in India through the encouragement afforded to fraud. Your Excellency in Council, if this Bill becomes law, will probably think fit to enquire of those who are most competent to speak with authority, whether the provisions of this Code relating to testamentary disposition might not safely be extended to all the races of India who have the power of making Wills. I must further bring to the notice of the Council that this Bill contains a part of a vast mass of law, which is accepted as law by all the civilised races of the West, independently of express enactment. The rules I refer to are deemed to embody first principles, or direct deductions from first principles.

Whatever be their true origin—and the better opinion is that most of them descend from the Roman Civil Law—they have long commended themselves to the common sense of all European communities. Even in England, this body of rules has never been put into so intelligible and accessible a shape as it is placed by this law. English practitioners have to gather it painfully from dispersed treatises and detached law-reports. Even if this part of our Code were nothing more than a repertory of these rules, it would be difficult to overrate its value, for the want of such a repertory is greatly felt in our Mofussil Courts, and I have no doubt that the definite rules contained in it will rapidly fill the void which is now somewhat vaguely occupied by inferences from the not very certain canon of "equity and good conscience." But beyond all doubt, the great influence of this Code will be its influence as a model and a type. Judging by experience, there are no limits to the influence which a clear and simple body of written law exercises in absorbing less advanced systems of jurisprudence. The great example of this is of course the French Codes, which, violently detested and vehemently decried after the collapse of the French Empire in 1815, give now in 1865 the law to all but a fragment of Continental Europe. Through the effects of this power of absorption, I have no doubt that, if our Bill become law, it will ultimately deserve the title which at present we hesitate to give it, that, namely, of "The Indian Civil Code."

The Motion was put and agreed to.

The Hon'ble Mr. Muir—" Sir, in pursuance of the notice which has now been in the hands of the Council for several days, I beg to move this amendment, namely,—

That the following Sections be omitted from the Bill, and their consideration deferred until the portion of the Civil Code on marriage and its effect on property is brought forward :—

*Section* 43.—" No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

*Section* 44.—" If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage."

Sir, my Hon'ble friend, on the occasion of introducing the Code, made use of the following remarks :—

"One thing more I have to say. I venture to predict that when the first Chapter of the Civil Code has been examined and discussed by the Council and its Committee, the strongest impression left on their mind will be respect for the Commissioners who prepared it."

He added—

"I may say that their labours are probably destined to exercise hardly less influence over the countless communities obeying English Law than the French Codes have exercised and still exercise over the greater part of the Continent of Europe."

Having had the honour of a seat in the Select Committee, which has been engaged now for some months in carefully and patiently reviewing this Code, I am in a position heartily to concur in this praise, and in the eulogy which my Hon'ble friend has just passed upon it. I do not yield to any Member of the Committee, in gratitude to the framers of the Code, for their disinterested labours and the benefits thereby conferred on India, nor in admiration of that most sound, substantial, and symmetrical system of law now before the Council.

Upon any question of a legal character, I should not have ventured to controvert the opinion of those eminent authorities, nor to have differed from my Hon'ble friend, to whose views I wish always to defer, and whom upon legal questions I should be disposed implicitly to follow.

But, Sir, this is not a matter of mere legal bearing: it has a reach far beyond that of any ordinary point of law. And it is because I believe that the provisions contained in Section 43 will injuriously affect the frame-work of society and the foundations of domestic life, that I have ventured to call them into question.

This Section lays down the normal rule of the married relation, that is, the rule which shall prevail in the absence of any special stipulation. It provides that "no person shall by marriage acquire any interest in the property of the person whom he or she marries." The husband will acquire no interest whatever in the property of the wife nor the wife in the property of the husband. Each will possess the respective property existing at marriage, or acquired after marriage, altogether independent of the other. The wife will have the right to manage her own property, and to receive all rents, profits, and revenues thereof, on a footing entirely separate and distinct. For the Section goes on to say that neither party shall "become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried. The wife is thus empowered to act separately and independently in respect of her property, to enter into obligations, to bind herself, for example, as a surety, to trade, to speculate, to sue and be sued, not only without the consent, but even against the will of her husband. In fact she will have as entire and absolute a right of property and as separate and independent a right of action in respect of it, as if she had not married.

Now, what I wish to urge upon the Council is, that this is a state of law different from any which has ever existed, or which does at present exist anywhere, excepting, perhaps, among the Mahometans. I wish to urge that the nearest approach to such a condition belongs to a period when society was demoralized and the conjugal relation lax. I will also show that the tendency of European society has been to recede from such separation of interest between the husband and wife, and to re-establish in greater or less degree a community of interest between them.

As remarked by my Hon'ble friend, the Roman Civil Law forms the substratum of the law generally adopted in Europe; and I will therefore state its provisions on the subject. In the earlier periods of Roman history, the marriage ceremony placed the property of the wife entirely at the disposal of the husband; it passed *in manum viri*; and so strongly was the integrity of the family preserved that the wife was regarded at law as a daughter.

To this extreme stringency succeeded an equally extreme laxity. Marriage came to be an ordinary contract into which the husband and wife entered on equal terms, each retaining a right of property altogether independent of the other. But the wife could not transfer her property to the husband without a full consideration; so that the system had this advantage, that it protected the wife. Now this independent right of property in the wife existed during a period when society was marked by an extraordinary laxity of manners, and looseness of the marriage bond. As remarked by Mr. Burge,

at this time "the frequency of divorces and the frivolous causes for which they were granted, formed a striking contrast to the simplicity and purity which distinguished the earlier period of Roman history."

The rule of separate property having been thus incorporated in the Civil Law, was naturally pressed by the advocates of that Code, more or less, upon the nations of Europe. But the intuitive sense which prevailed as to the unity and integrity of the family, resisted its application, and at length secured in every nation community of interest in a greater or less degree between the husband and the wife.

I will begin with Spain, because the Civil Law of marriage seems to prevail there more completely than in any other country Originally, in fact, the law of marriage in Spain was precisely that of the Civil Code. But by degrees a community was introduced of this nature:—the wife retained her title to the property which she possessed at marriage; but all gains, rents, profits, and acquisitions, whether from the wife's property or other sources, *subsequently to marriage*, fell into the common stock. This is called *communio quæstuum*, and is now the law of Spain. "This community," says Burge, "silently and imperceptibly acquired a place amongst the usages of Spain." In fact, the national instinct rebelled against the unnatural rule of the Civil Law, and reverted spontaneously to the natural law of community. The wife cannot trade without her husband's consent; and I may add, that in Trinidad, an order of British Council still further modified the Spanish law by introducing a somewhat greater degree of common responsibility of husband and wife for their respective debts.

I will now allude briefly to the laws of other European nations.

In Holland, when there is no express stipulation to the contrary, there prevails "universal community," which brings under a joint interest the entire property of husband and wife, both that which existed prior to marriage, and that which may be acquired after marriage. Even when this arrangement is specifically excluded, there still remains the "particular" or restricted community, which (like the *communio quæstuum*) extends to all acquisitions during marriage. The husband is also curator of the wive's property; as such, manages and administers it.

This is also the law in Ceylon, the Cape of Good Hope, and British Guiana.

For the law of France, I beg permission to quote from Storey:—

"When no special stipulations exist, the case is governed by what is denominated the rule of community, *le régime de la communauté*. This community or nuptial partnership generally extends to all the movable property of the husband and wife, and to the fruits, income, and revenues thereof, whether it is in possession at the time of the marriage, or it is subsequently acquired. It extends also to all immovable property of the husband and wife acquired during the marriage; but not to such immovable property, as either possessed at the time of marriage or which came to them afterwards by title of succession or by gift. The property thus acquired by this nuptial patnership is liable to the debts of the parties existing at the time of the marriage; to the debts contracted by the husband during the community, or by the wife during the community with the consent of the husband; and to debts contracted for the maintenance of the family and other charges of the marriage. The husband alone is entitled to administer the property of the community; and he may alien, sell, and mortgage it without the concurrence of the wife. The husband becomes the head of the family; and the wife can do no act in law without the authority of her husband. She cannot, therefore, without his consent, give, alien, sell, mortgage, or acquire proprety."

The same law prevails in the Mauritius, St. Lucia, and French Canada.

In Scotland, marriage establishes a community of movable property. The wife retains the title to her heritable property, but all its proceeds fall into the common stock. The husband is curator of the wife's estate, which she cannot alienate without his consent. If there be issue, the husband acquires a property in his wife's estate.

The law of England need be but briefly mentioned. By it, marriage is a gift to the husband of the wife's personal property; it confers upon him the freehold of her real property for his joint life; and if there be issue, for his entire life. The wife cannot contract in respect of any property not settled for her separate use.

In America the law is based upon that of England, the several States following it more or less closely; excepting Louisiana, where a rule prevails resembling the communio quæstuum.

This detail (for the length of which I must apologize to the Council) was necessary to prove my position. It does prove, so far as I have been able to prosecute the enquiry, that there is no European nation, or European dependency, of which the law at all resembles that which is laid down in this Section. In all, there is a community more or less complete; absolute and universal as in Holland; restricted as in England and Scotland; or still more restricted as in France and Spain. The weakest form existent anywhere is the communio quæstuum, or community of acquisitions during the marriage.

I need not stop to point out, how completely different is the effect of this Section, by which the wife possesses her property, acquired either before or after marriage, entirely separate from her husband; and possesses a power over it as independent and uncontrolled as if she had never married.

As the wife is not responsible for the debts of her husband, and the husband possesses no controul over the property of his wife, it might be contended that neither is the husband in equity responsible for his wife's debts, but that she should be responsible for her own debts both in her property and in her person.

I apprehend, however, that this would be a state of things that could not consist with the usages of civilized society. And yet, if the husband is to bear an *unlimited responsibility* for his wife's debts, it is only natural that he should have some controul over the disposal of her property,—at any rate over that part of it which was not settled by an ante-nuptial contract for her own separate use. By existing law, the husband does now bear this unlimited responsibility; and he will continue so to do, unless that responsibility be removed in the future portion of the Code which relates to marriage. I ask, then, how can we fairly perpetuate the responsibility of the husband for the debts of his wife, when we have taken from him the corresponding right of controul over her property?

Perhaps my Hon'ble friend will be good enough to explain to the Council what will be the future course of legislation in this respect;—whether it is intended to retain the unlimited responsibility of the husband for the debts of his wife: and if so, by what corresponding provisions it is contemplated to protect the husband; whether her property is to be primarily responsible for her debts, and the husband only in the second degree;

or in what other way their relative responsibility will stand.

I contend that, until these points are known, the bearing of this Section cannot be satisfactorily understood. To make a sweeping change of this nature, while as yet its ultimate effect is hidden from us, is to legislate in the dark. However much we may respect and trust Her Majesty's Commissioners, the Council should not thus be called on to pin their faith to a proposal which is only half developed.

The only indication which I can find of their intention is in Sections 183 and 189, where it is laid down that probate and letters of administration cannot be granted "to a married woman without the previous consent of her husband." She will, therefore, not be able to bind her property by any acts performed in execution of a will or administration of an estate, undertaken without her husband's consent. But there must be a multitude of other restrictions to which the husband is equally entitled if he is to be held unlimitedly responsible for the debts of his wife.

Sir, I object not merely to the separation of property introduced by Section 43; I object altogether to this piece-meal legislation which gives us the part of a law, and leaves the complement necessary to the full comprehension of its bearing and effect, indefinitely to some future period. I cannot think that this style of legislation is right and proper.

In justification of the change, it has been urged that, although the law of England is as I have stated, it is yet habitually over-ridden by marriage settlements; and that the effect of marriage settlements is the same as the new law. Thus the Commissioners in their report say :—" such powers as we propose to confer on the wife are frequently reserved to her, even in England, by the terms of her marriage settlement." The Law of marriage settlements is dangerous ground for the uninitiated to tread upon. But I believe I may appeal to my Hon'ble friend to support me in saying that the state of property produced by an ordinary marriage settlement is essentially different from the project under discussion. For, in the first place, that arrangement secures to the wife the property settled for her separate use, in such wise that (as under the old Civil law) she has no power to transfer it to her husband. Now, under Section 43, the wife may at any moment give away and surrender the whole of her property or any part of it to her husband: she possesses full and absolute power of alienation to her husband, as to any other. I need not point out that this provides no satisfactory protection to the wife; and instead of that Section producing the same state of things as an ordinary marriage settlement, that, on the contrary, marriage settlements will be hardly less necessary under it than at present. In the second place, an ordinary marriage settlement confers no power on the wife save and except over the specific property separately settled upon her; whereas Section 43 confers on her an absolute and unrestricted right of contract and disposal in respect of all property whenever possessed or however acquired. I believe, therefore, I am justified in asserting that Section 43 will create a state of property in the wife, entirely different from the disposition of property prevailing under ordinary marriage settlements.

It was also urged in Committee, that, although the husband does lose in being cut off from any interest in his wife's property, he will obtain a corresponding advantage, since his wife's property will not be liable to seizure for his debts. Sir, this appears to me a very questionable argument. For, in the first place, it proceeds on the assumption (which the supporters of the Section deny) that the husband does possess a natural and equitable interest in his wife's property; and secondly, this provision will often tend to defraud the creditor of his just dues. For it enables the husband to contract debts, arising probably out of the common necessities and obligations of the family, and yet it holds back from the creditor property that is fairly liable for such debts.

But, Sir, for any minor objection of this nature, I should not have ventured to oppose the new provision. I oppose it because I think that its tendency will be detrimental to society, and will affect the unity of domestic life.

I adhere to the ancient belief that the family is, by the very constitution of human nature, an indivisible unit. And any legislation tending unnecessarily to break up that unit, must produce a baneful effect. In the family, the children are bound in obedience to the parents; the husband is the head of the wife; and thus he is the head of the whole family. It may be the fashion of modern views to decry this ancient belief, and assert the equal and independent rights of women. I cannot share in these views; I believe them to be fraught with danger. I think that the drift of the new law is in this direction. As the Hon'ble Mr. Campbell has remarked :—

"The question then really is—shall we now enact by one Section in a Chapter on successions that marriage shall no longer be that intimate and unlimited partnership on which the institution of the family as a corporate unit is founded, or shall we leave that great question to be settled in its proper place?"

I confess my own conviction that the proposed law will have a tendency to sow the seeds of disunion and alienation in the married state; to introduce division, where the normal relation of husband and wife implies unity, of right and title; to break up the family into two distinct heads, each with its separate property and establishments, separate obligations and responsibilities, separate and it may be antagonistic interests.

In so far as this state of things prevails, the common authority of the parents will be weakened. A separation of interest between them will distract the filial devotion of the children, and diminish the motives for honor and obedience. The bond which knits the family together will be enfeebled.

For these reasons, I concur in the opinion expressed by the Hon'ble Mr. Seton-Karr in a passage of his report upon the Bill, which I trust the Council will permit me to read in their hearing.

"This Section seems to me to involve a very important and, I must say, a dangerous deviation from the principles on which marriages have been hitherto concluded. I am aware that this change finds favour with several eminent Law Reformers; but, in my own opinion, it is a change of a novel, undesirable, and formidable kind. A question of this sort will always more depend on, and be ruled by, social and domestic feelings, than by logic or knowledge of law. But I think that feeling, past experience, and that reason which we apply to the ordinary transactions of life, are equally against the new view now set up. The onus of proving the paramount necessity of such an alteration lies on those who propose it. I cannot think that it will tend to increase the number of happy marriages. On the contrary, it may have the effect of sowing dissensions where none existed previously, and of adding to any existing sources of discontent between man and wife. It involves a fundamental change in the conditions of married existence, which seems to me wholly uncalled for; likely to create feuds or to in-

crease them; at variance with a principle well known, popularly accepted, and long established in England; subversive of the harmony and well-being of the closest social intercourse; opposed to the wholesome relation in which the woman stands to the man; destructive of mutual dependance and honour, and a mere concession to the levelling spirit of the present age, presented under the guise of a questionable liberality.

"Had I a vote to give, I would unhesitatingly give i against any such proposal which seems to me much at variance with the other parts of this excellent Code."

I ask, then, on what account it is proposed to introduce this dangerous innovation? Is it to protect the wife against her husband? I have before shewn that it will fail to afford her any adequate protection. She may, the very next day after marriage, surrender her property into the husband's hands. At times of weakness, distress, or necessity, the inducement to such surrender will no doubt be often irresistible. I repeat, then, this Section affords no protection to the wife against a bad, designing, and selfish husband. And I contend that the same object may be equally well secured, perhaps secured much more efficiently, without abandoning that community of interest recognized everywhere.

Is it a reason in favour of this new principle, without a parallel in Christendom, that it is in conformity with the Mahometan law? Sir, I cannot think this a happy augury. From my own observation I may say that the Mahometan rule on this point, without raising the female sex, has plainly tended to produce disunion and dissension, to create and to fan feuds of family, to encourage litigation, and break up the household into parties, the children siding one way or the other. I am far from saying that there are not other causes at work in Mahometan society to produce these evil results; but the distinct influence of this rule in producing, as its natural and legitimate result, the effects I have described, cannot escape the careful observer. It has forced itself painfully upon the notice of Mr. Campbell, whose long experience as Judicial Commissioner in Oudh gives special weight to his opinion. He thus writes:—

"Among them (the Mahometans) only has this law hitherto prevailed in India. It is now proposed to extend it to all, Englishmen, Christians, and others, as the *lex loci* of the land. After administering justice for some years in the greatest and wealthiest Muhammadan city in India, I have become so deeply impressed by experience of the disunion and ruin of families worked by this law of husband and wife, that I think it my duty to state my apprehensions before that law is so widely extended."

And again, after asserting the rule of unity and community in the family as the indefeasible law of Christianity, he proceeds:—

"But if it be said that this is not a Christian country, and that the legislature is not a Christian Legislature, then I shall be prepared to say that the result of my experience goes most strongly to show that, in practice, the freedom of the individual spouse and the reduction of marriage to a mere contract on such terms as may please the parties does not work well; that under such contracts nothing like the family subsists; that man and wife are no more to one another than two partners; that when they have their separate interests, separate rights, separate establishments, the name of marriage is degraded; the status and the honour of families is destroyed; the family itself ceases to exist."

But for whom is this law intended? Hindoos, Mahometans, and Buddhists have been excepted from its operation; and all tribes having their own laws on the subject will also be exempted. The law then will apply to European settlers, to classes of mixed blood, to Native Christians, and to the Races scattered throughout India not specially exempted from its operation. Do any of these classes desire this novel Law which the Council is about to impose upon them? Do the Native Christans desire it; or those who are the natural guardians of their interests—have they expressed the opinion that it will tend to their welfare? Have the Anglo-Indian classes exhibited any preference for this rule? Is it likely to approve itself to the European settlers? In answer to this last enquiry, I was told, "Oh! if the Settlers do not like the law, they need not *domicile*, and then they will be free from its provisions." Sir, I refuse to accept this as a satisfactory reply. We should not discourage, we should rather encourage, the European settlers to acquire the domicile of the country. We should do this, not simply by providing facilities for the registration of domicile, but by the enactment of laws conformable to the usages of Europeans nations, and the customs and prepossessions (or, if the advocates of this Section will have it so, the *prejudices*), of those who come to settle here.

How will the law affect the Native tribes and races scattered throughout the Peninsula? Do they desire it; will it be suitable for them? It has been urged in reply to my argument, that marriage-settlements in England, reserving a separate property for the wife, do not produce disunion or estrangement: why then should those results be apprehended in India? I reply,—I have already shown that the effect of the proposed law will entirely differ from that of an ordinary marriage-settlement; the latter being limited in its operation, and yet forming a perfect protection to the wife. An arrangement of this nature, by previous consent of parties, in no way resembles the absolute independence conferred by the projected law; the one may be innocent, while the other is dangerous. But farther; a system which may be suitable to the advanced state of civilization in England, will not necessarily be suitable for India. Were it even admitted that the effect of the new law would be precisely the same as of an ordinary settlement compatible in England with domestic harmony, it would not follow that such a law is fitted for the Native classes in India who will gradually fall within its scope, or for the extensive bodies of Native Christians in various parts of the country. These belong to an entirely different stage of civilization, a simple, rude, and backward stage, at which it is of extreme importance to maintain the integrity of the family and to uphold the authority of the husband as its head. For them, at any rate, the projected law would be surely most unsuited.

Sir, I am far from holding that some modification of the English Law of marriage may not be expedient. It may even be indispensable to simplify that law by removing, for example, the subtle distinctions now prevailing between personal and real property; and it may also be possible to afford substantial protection to the wife without unduly weakening the safe-guards of community of property Possibly this might be done by some approach to, or modification of, the French *régime de la communaute*. But if any change of this nature be attempted, I would urge that it be deferred till the Chapter upon Marriage, when alone, as I have already shown, the full bearing and effect of this measure will be understood.

I have a further objection to the present position of this Section. To that position must, I believe, be attributed the almost total absence of discussion on the subject. Excepting the opinions of the

two gentlemen already quoted, the Committee have received no comments whatever on this important point. Nor have I observed the subject discussed—as it is natural to suppose a topic like this of the deepest and widest social bearing would be discussed—in the public journals. I do not attribute the apparent absence of interest towards a change of such vital importance to any neglect of their duty on the part of the leaders of the public press. Who, in fact, would look for the Law of Marriage in a Chapter on Intestate Succession and Wills? You might as well expect there to find Rules for the Income Tax or for Police, or the Law of Insurance, as there to find the Law of Marriage. In a word, had it been an object to pass this Section in a close and surreptitious manner, it could not have been done more successfully. I am far, of course, from saying that this has been in any measure intended. But the effect has been the same. I repeat, attention has not been attracted to the subject; there has been absolutely no discussion of it. I submit, therefore, that the Council should not precipitately pass this measure without having the benefit of opinion out of doors. I would urge that, if necessary, the whole Bill be postponed for such a period as will admit of a fair and full consideration of the measure by those whose dearest interests are affected by it.

In conclusion, Sir, I have shown that the proposed measure differs essentially from the law of every other nation; there is no people among whom community of married interest does not more or less exist, excepting the Muhammadans. I have shown that it will maintain the unlimited responsibility of the husband for the debts of his wife, and yet take from him the corresponding control over her property. I have shown that the effect of this project will be entirely different from that of an ordinary marriage settlement. I have shown that it may defraud the creditor of his just dues. I have shown, at least, my opinion is, that the abolition of community, and establishment of a separate and independent interest, will be injurious to society, encourage dissensions in the family, and weaken the domestic bond. I have shown that the new law will not protect the wife against a selfish and designing husband. I have demanded proof that the change is desired by the classes for whom it is intended, or that it is suitable for them. I have shown that, at any rate, it should be deferred till the enactment of the Law of Marriage, in the light of which alone its effect and bearing will be fully seen. And lastly, I have shown that the intended change has not received the attention of the public, nor the full discussion to which so vitally important a measure is entitled.

And, yet once again, I ask why this novel and dangerous innovation is to be made in India? Has any European nation found the prevailing law of community so irksome or injurious that endeavour has been made to get rid of it? The tendency has been, as I have shown, rather to revert to that state of community where it had been lost sight of. Have any of the dependencies of the nations of Europe abandoned the law of community as burdensome or inequitable? They are not bound, as it might be said the mother-country is, by ancient prejudices or prescription. They have free Legislatures of their own. Has any change, any attempt at change in this respect, been made by them? In New South Wales, for example, or New Zealand, or Canada, the Cape, Ceylon, Mauritius, in short in any European dependency, have steps been taken to shake off this time-honoured law? Has any one of the American States done so? And yet they are not slow at novel legislation, and sometimes also vaunt the rights of women. I do not know that even there, any endeavour has been ever made to introduce so sweeping and radical a change. Sir, I have sought diligently for a precedent in the experience of nations to justify this law; and I have sought in vain.

In vain have I sought for a reason to justify to my own mind this strange and novel rule. The only reason which I have lighted upon is contained in the following extract from my Hon'ble friend's opening remarks in the speech already quoted. He spoke thus:—

"I may say that, in proportion to the judicial or professional eminence of an English lawyer is his sensitiveness to the undoubted faults of English law, and his anxious desire that, to that strong and solid structure of common sense which constitutes its mass, there should be added excellencies to which it certainly cannot at present lay claim · simplicity, symmetry, intelligibility, and logical coherence.

Sir, simplicity, symmetry, and logical coherence, are unquestionable excellencies. But I submit that, for theoretical advantages like these, no experiment should be adventured which may imperil the best interests of society. Let those who desire it make the experiment upon themselves; or let it be tried upon some inferior subject. It is usual to say that an untried experiment involving vital interests ought to be made first upon an inferior subject. But I submit that India, and the settlers spread over its plains and mountains, are no such ignoble body as to be made the first and earliest subject of this trial. I therefore urge it upon the Council, and entreat earnestly, that these Sections be omitted from the present Bill, and their consideration postponed until the chapter upon marriage is reached; by which time some wise and middle course may be struck out which shall combine the undoubted excellencies of simplicity and logical coherence with the adequate protection of the wife, yet without sacrificing that community of interest between husband and wife which is recognized throughout the length and breadth of Christendom."

The Hon'ble Mr. Maine.—"The first observation which my Hon'ble friend's speech calls for is a reply to his remark that this Section has not been discussed by the Indian Press. It so happens that it is the only Section which has been discussed. We sometimes suffer from the want of discussion on the part of the Press: but the observations on this provision which I made when I introduced the Bill were really elicited by comments on it in an Indian newspaper for whose readers I intended the explanations which I then offered, and which I am about to repeat.

I submit to my Hon'ble friend that it will be impossible to carry his amendment without going further. I do not wish to obstruct any course he may think fit to take. But I must say that if these Sections are simply omitted, the result will be almost inextricable confusion. As he himself appears to anticipate, the English law of marriage in its application to property will survive, since we have practically confined the operation of the Code to the European community. Now, as I before explained, one of the principal objects of the new law is, to efface the distinction between Real and Personal property, to substitute that between Moveables and Immoveables, and to provide simple rules of testamentary disposition and of intestate succession uniform for property of

either kind. But the English Law of Property as affected by marriage, has essentially for its basis the distinction between Realty and Personalty. It has been correctly described by my Hon'ble friend. It gives the husband all his wife's personalty, it confers on him certain limited rights over her realty, over debts due to her and over what are called her chattels real. On the other hand, the wife acquires a right to dower out of her husband's lands. I speak of course of the law of marriage as unaffected by marriage-settlement, or by the provisions of any Will of the person from whom the property has devolved. What then will be the effect? Wills and marriage-settlements are *in pari materia*. Succession after death is just as often determined by one as by the other. Every Will, therefore, made under this Code will be governed by one set of principles: every marriage-settlement will be made under another. There will be entanglement between the two, and so far from having increased the simplicity of the law, we shall have added greatly to its complexity. If the amendment is carried, the first form of the last Section must be restored, and the Code will only come into operation after the Chapter on the Law of Persons shall have been passed. But as the Commissioners will almost certainly take that up last in order, the Code, when it is enacted, will have ceased to have practical interest for anybody now in India.

I have no doubt, however, that my Hon'ble friend has proposed his amendments with a view of raising the question of principle which he has very ably argued. He has stated, though with more moderation, the views expressed by Mr. Justice Seton-Karr, in a minute on this Section, which he has forwarded to the Council. To put these objections in a clear light, I will cite a part of Mr. Seton-Karr's animadversions.

'It involves a fundamental change in the conditions of married existence, which seems to me wholly uncalled for; likely to create feuds or to increase them; at variance with a principle well known; popularly accepted, and long established in England; subversive of the harmony and well-being of the closest social intercourse; opposed to the wholesome relation in which the woman stands to the man; destructive of mutual dependance and honour, and a mere concession to the levelling spirit of the present age, presented under the guise of a questionable liberality.'

Sir, I trust I shall not occupy much of the Council's time in showing that the Indian Law Commissioners are not open to these grave charges. Whether I shall present the justification which the Commissioners themselves would give I really cannot say. For I suppose that the last criticism on their Code they would expect would be this. How little these gentlemen, who are not more learned than respectable, can be prepared for the charge that they are intending disturbers of domestic peace, may be inferred from the fact to which my Hon'ble friend has adverted, but without bringing out its full significance, that this Section simply embodies the provisions which are inserted as a matter of course into every well-drawn English Settlement when the property of the lady is brought under it. I venture to say that every lawyer practised in conveyancing—our friend the Secretary to the Council for example—would insert it without a second thought if he had no express instructions to the contrary, or rather he would prescribe a more stringent rule, as my Hon'ble friend seems himself to be aware, though I do not comprehend the argumentative use to which he has put his knowledge of the fact. There is a certain magical formula of English law "to her sole and separate use" which wherever it is found has the exact effect of this Section. But it is usual to take a further step to which, as it seems, my Hon'ble friend must object, *à fortiori*, and to deprive the wife of the power of anticipation so that not only has she the controul of her property, but is unable to divest herself of it in favour of her husband or of anybody else. The Law Commissioners therefore appear to me to have followed what is the soundest of all rules in amending legislation. They find the nominal law one way, the actual practice another. They know by experience that the nominal law is altogether over-ridden by inveterate usage. Thereupon they have taken the usage and made it into the law. Sir, it seems to me that the argument of my Hon'ble friend and of these learned Judges, Mr. Justice Seton-Karr and Mr. Justice Campbell, lead inevitably to the conclusion, which surely, with all respect, I may venture to call absurd, that in every household in England afflicted with the calamity of a fortune devolving on a wife from her parents, dissension and suspicion must reign, and a generally immoral state of relations be established. Mr. Justice Campbell observes that he has become alive to the mischievousness of this Section from sad experience of the evil effects of a similar rule among the ladies in the zenanas of the Shía Muhammadans in Oude. I venture to think that the experience of English gentlewomen is more germane to the purpose, and I say that the averment that to give them a share in the controul of the property they have inherited impairs their sense of conjugal duty is calumnious. I do not indeed mean to say that it is calumnious in the mouth of my Hon'ble friend or of these learned Judges. I attribute a feeling, which to me is perfectly unintelligible, to a small circumstance peculiar to India, which is not unimportant. Members of the Services in India marry generally under the provisions of their funds, which, in fact, are ready-made marriage-settlements. As, then, these Funds are formed by retrenchments from the earnings of the husband, a marriage-settlement in India is most frequently a provision made exclusively by the husband. But a marriage-settlement in England is just as often a settlement of the wife's fortune, and I say that the general sense of equity and fairness prevailing among Englishmen would be severely shocked if there were not reserved to the wife a controul over her property, or, at all events, the free exercise of her volition in giving it away. And so strong is this feeling that the property-holding classes have given the benefit of their own practice to the poor, and some recent enactments have been passed to protect the personal earnings of a wife against the Common Law rights of her husband.

Sir, the first reason which I should expect the Commissioners to give in justification of this Section is this, that by it in an eminent degree they have attained to simplicity. It is no doubt possible for the law-giver to regulate by express legislation the law of property as affected by the status of marriage—to select some system of proprietary relations between husband and wife as in itself the best and most expedient—and yet to construct a tolerably simple body of jurisprudence. But such simplicity can be secured on one condition, which is quite indispensable. It is this—that after choosing your ideally perfect set of relations, you adhere to it, and abide by it—that by express prohibitions you forbid any but the most

inconsiderable departure from it. It is, as it seems to me, an inadequate appreciation of this truth which deprives of value my Hon'ble friend's citations from foreign bodies of law. The French Codes, which are doubtless the most liberal of all, and which are destined to absorb almost all the others, provide, as any Hon'ble friend has correctly stated, three alternative forms of marriage-settlement, and ordain that if none in particular be adopted by the persons marrying, one special settlement shall prevail. But, then, under French law no marriage-settlement is allowed to affect succession after death. Every contract of the kind is subject to the inflexible rules which compel the absolutely equal division of the property among the children. Moreover, the enjoyment of the property by the married persons during their joint lives can only be varied from the provisions of these three ready-made settlements in a very slight degree. Some deviation through what are called "auxiliary. facts"—"collateral articles" as we probably should call them—is permitted, but such deviation is not considerable. Speaking roughly, it may be said that two persons intending to marry under French law are confined to a choice among three forms of marriage-settlement, and can only affect their own life-interests.

Compared, then, with the almost unlimited liberty of making settlements which is permitted by English law, the French system is one of the severest restriction. I suppose, then, the Law Commissioners to have reasoned in this way. "We offer no opinion as to the abstract expediency of the proprietary independence of husband and wife. We are ready to admit, that in particular cases, it may be desirable to give the husband a larger control over his wife's fortune. But we are unable to reconcile any legislation founded on this admission with that unbounded liberty of moulding settlements to the position of the persons and of the property which the English law has long permitted, which the English people have long practised, and which we intend to confer on the people of India. Granting the unshackled freedom of making settlements, we think that the proprietary independence of man and wife is the best point to start from. For it is found by the experience, the consentaneous experience of English lawyers, that if you insert a series of provisions in a law, but permit them to be overruled at the pleasure or caprice of individuals, you make an absolute sacrifice of simplicity. For the immediate result is this :—every line and perhaps every word of every marriage-settlement will have to be framed with an express or tacit reference to the antecedent provisions of the Code. The object is to exclude those antecedent provisions and to substitute others. But this can only be done by a person who has those provisions in his mind and their legal consequences also. The effect will therefore be to defeat one of the principal objects of this legislation, which is to dispense with the absolute necessity of employing professional lawyers in drawing Wills and Marriage-settlements. Probably under no system of law will it ever be quite safe to dispense with professional assistance. But if this Code be not tampered with, it will ensure, as far as is possible, that the intentions of a testator or settler expressed in plain and untechnical language shall have effect." The Commissioners, therefore, secure by this Section, the great legal advantage of simplicity. But let me ask, on their behalf do they sacrifice morality? Really, Sir, the feeling of my Hon'ble friend, and of the two learned Judges, appears to me utterly inexplicable. They seem to regard it as almost sinful in the law-giver to decline to express a preference for one particular system of proprietary relations between husband and wife, and Mr. Justice Campbell claims the most solemn sanctions for some arrangement which is not clearly explained, but which, at all events, is not that of the Code. But neither my Hon'ble friend nor Mr. Campbell seems to have the smallest objection to allowing their typical system to be overridden by the first comer. If, then, the system of the Law Commissioners be sinful, I say that the system of my Hon'ble friend and Mr. Campbell is sacrilegious. If a particular state of the law of property is sanctified at the altar, to allow it to be set aside is to profane the altar. Sir, the English marriage service still contains the ancient formula by which the Church in the Dark Ages constrained the husband to promise that he would give his wife after his death her dower and thirds, a promise which has given its form to the Common-Law of nearly all Europe. It usually happens that the marriage-settlement, signed a day or two before the ceremony, makes the wife covenant to renounce her dower and thirds. Now, if the meaning of the promise were generally understood, which it certainly is not, does my Hon'ble friend think that it adds solemnity to the occasion, or that it might not be omitted with advantage? I think that there is something like indecency even in a secular Legislature to set up provisions which will certainly be knocked down by everybody like men of straw. But if these provisions have the sanctity which is now claimed for them, there is something worse than indecency.

Another justification which perhaps the Commissioners would offer is that the Section, except in very rare cases, will only have effect when it has been deliberately intended that it should have effect. I asserted once before that there is no practice which diffuses itself so rapidly as the practice of making Wills and Marriage-settlements, and under the simple forms permitted by this Code, the chances are that it extends itself more widely in India than in England. But if by some accident—and it will only occur through an accident—property should devolve from her relatives on a wife during marriage in such a way that this Section operates upon it, I cannot for a moment admit that there is the smallest objection to requiring the wife's consent before this property is dealt with by her husband. The learned Judges do not seem to me fully to comprehend what my Hon'ble friend has shown that he understands, though it does not help his argument, that this Section does not forbid the wife to divest herself of that controul over her property which it secures to her. There will be nothing to prevent her re-settling it the next moment to her husband's advantage. There have been systems of jurisprudence, which, like the Roman law, made it their deliberate policy to keep apart the property of husband and wife. But then the Roman law went on by its prohibition of donations *inter virum et uxorem* to forbid one married partner to alienate his or her property in favour of the other. An English marriage-settlement when strictly drawn has the same effect as regards gifts from the wife to the husband. But this Section puts no obstacle in the way of an immediate re-settlement. What conceivable objection can there be to requiring the

wife's consent to it? If that state of relations follow which in the great majority of cases does follow, it would certainly be asked, and that household must be miserably ordered in which the intelligent assent of the wife to an advantageous disposition of the property is not asked, and given as a matter of course. But assume the contrary—assume that the wife capriciously and maliciously, and to the detriment of the common interest, refuses her consent. Does my Hon'ble friend, who has the peace of families at heart, suppose that he would mend matters by allowing the husband violently to take away that which he has not earned or given? Since the beginning of the world, or at all events since the War of Troy, no great amount of good feeling, so far as I know, was ever created by allowing one person to take away by force what belongs to another. Nothing can be clearer, in short, than the probable operation of the Section. In the great majority of cases, the law will correspond with that which, apart from law, would exist in fact. In the few exceptional instances, no good would be done by attempting legislation.

But, Sir, for myself I must admit in all honesty that, according to my individual judgment, it would be better if it were even commoner than it is to give the wife a controul over her own property, and if that controul were more sustained and continued. I wonder that my Hon'ble friend has not learned the same lesson which I have learned from our discussions on this Code. Why is it that after exempting Hindús and Muhammadans from its operation we have been led successively to except nearly every Native race in India? The reason is the same throughout—the insurmountable distaste which all feel for anything like an equality of privileges between the sexes. Some will allow the woman to have nothing: they say that she should be supported by her parents when she is unmarried; that her husband should maintain her when she is married; and that after his death, since the British Government permits her to live, she should be at the charge of her children or relatives. Others go a step further, and admit that the woman has a right to a share of the patrimonial property. But they affirm that it is an indeterminate share, determinable by her needs or by the sense of equity prevailing in the family. If I had no data to go upon, other than those which these discussions supplied, I should be led to the conclusion which I have arrived at independently, that if there exists any test of the degree in which a society approximates to that condition which we call civilization, it is the degree in which it approaches the admission of an equality of right between the sexes. In this country I am sure that by simply applying that criterion you could construct a scale of barbarism and civilization which would commend itself to every man's perceptions. My Hon'ble friend Mr. Anderson must forgive me for saying, that perhaps the last struggle of barbarism—I do not use the word offensively, but as a term of degree—occurs in the case of his excellent clients the Parsees, who are ahead of the other races in allowing to women a definite share of property and in permitting them to enjoy it independently, but who seem to consider it a sin against nature if daughters were to take more than a fourth as much as their brothers. I once had a conversation with a very able Native Member of Council on some project of law, and I observed to him that if his view were correct, there would be no difference between wifehood and slavery. "Well," said he, "but that is the very doctrine from which we take our start." Now of course the views of my Hon'ble friend and the two learned Judges are very remote from this—they are very near the other end of the scale. But the question is, whether they are wholly unallied with it? I have always observed that prejudice, when driven to its last stronghold, generally clothes itself in language of a certain vague magnificence; and I cannot help suspecting that something of the doctrine of my Native friend lurks in the generalities of my Hon'ble friend and the learned Judges about the ideal type of the family.

Sir, I think we may claim, not for English Law, but for English Lawyers, the discovery that in order to settle satisfactorily the relations of married life, it is sufficient to rely on the personal obligations of the married couple. You compel them to live together, you settle their rights over their children, you regulate their power of binding one another by contract: their dealings with one another's property you leave them to settle in the way which seems best to them; and if bad is the best, you believe that by minute legislation you cannot make it better.

The Hon'ble Mr. Cowie said that, without giving his adherence to the whole tenor of the Hon'ble Mr. Muir's argument, he had intended to vote for his amendment on the primâ facie ground that it would be expedient to defer the consideration of so important a question until that portion of the Civil Code which treated of marriage and its effect upon property should come before the Council. But the Hon'ble Mr. Maine had shown so clearly the inexpediency of this; in fact, had named it as equal to postponing the question for years, that he (Mr. Cowie) was compelled to vote against the amendment.

The Hon'ble Mr. Muir—"Sir, I have paused before replying, because I had hoped that some other Members of the Council would have spoken at length upon the important question at issue between my Hon'ble friend and myself.

Sir, I do not perceive that there are many points in my Hon'ble friend's speech which call for any reply.

I must repeat my assertion that the subject has not received anything like adequate attention from the public Press. The article to which my Hon'ble friend alludes must have preceded the introduction of the Bill some considerable time; for since it has been before the Council, I do not recollect to have seen in the papers a single discussion on the subject. The silence has been complete and ominous.

My Hon'ble friend, it appears to me, has admitted that an ordinary marriage-settlement differs in its effect from the proposed law, inasmuch as it binds the property settled securely to the wife; and that suffices for the completeness of my argument.

My Hon'ble friend has failed to remove the important practical difficulties which I raised respecting the unlimited responsibility of the husband for his wife's debts, although the controul over her property is taken from him. Nor has he noticed the appeal which I addressed to him to inform the Council of the probable course which the marriage law will take in this respect. I submit that he has left us as much in the dark as we were before.

Referring to his comments on the restrictions of the French and other continental systems, it will suffice to say that there seems no reason why we should not borrow from them those parts which are good, without adopting unnecessary restrictions not essential to the doctrine of community.

My Hon'ble friend has well remarked that the English practice of marriage-settlements belong to a period of society the most forward and advanced in the world,—a state of society which can perhaps safely dispense with some of those family restrictions indispensable in an earlier stage of civilization. But I have shown that this Code, as the *lex loci* of India, will embrace indigenous tribes, mixed races, and masses of Native Christians, who belong altogether to a backward stage, unprepared for the great advances of modern society, with whom, at any rate, it is of the last importance to maintain the integrity of the family and the authority of the husband as its head.

If my Hon'ble friend will not consent to omit these Sections from the Bill, I would urge upon him whether it would not be proper and right to postpone the passing of the whole Bill for several months, in order that the subject may be further discussed. However valuable this Bill, no material inconvenience will arise from its postponement. We can afford to get on for a time without it, as we have already. There is no such urgent necessity for it as to demand the hurried and precipitate passing of so important an alteration as that now before the Council, an alteration, the end and full bearing of which are still involved in obscurity."

The Hon'ble Mr. Taylor said that it must be recollected that a large portion of the Council had been Members of the Select Committee and had taken the opposite view to his Hon'ble friend.

The Hon'ble Mr. Muir said that, as his motion had failed to secure any support in the Council, he saw no advantage in pressing it to a division. He therefore asked permission of His Excellency the President for its withdrawal.

The amendment was then by leave withdrawn.

The Hon'ble Mr. Harington said, it having been determined, and as he thought rightly, that Section 43 should stand as part of the Bill, he would now move that the Section be restored to the part of the Bill where it had originally stood, and from which he thought its removal had been proposed by the Select Committee without sufficient reason. The Section was declaratory in its character, and was intended to control, or to operate in respect to, the entire Bill. This being the case, he considered that the Commissioners had rightly placed the Section at the commencement of the enacting part of the Bill. His motion, which was made with the knowledge, and he hoped he might add with the concurrence, of the Hon'ble Member in charge of the Bill, was that Section 43 stand as Section 4 of the Bill, and that the numbers of the intervening Sections and of the present Section 4 be altered accordingly.

The Hon'ble Mr. Maine said that the Section had been removed from its original place to its present place in order to bring it in contiguity with Section 44. He had had considerable doubts as to the proper place of the section; but, on the whole, he felt inclined to acquiesce in his Hon'ble friend's motion, especially because the Law Commissioners had placed it in the position to which Mr. Harington wished to restore it.

The Motion was put and agreed to.

The Hon'ble Mr. Harington said that he would now further move that the last Section of the Bill (332) be struck out, and the following Section substituted for it:—

"The Governor General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect, or tribe in British India, or any part of such race, sect, or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the *Gazette of India*."

He thought that the Section proposed by him, without altering the principle of the Section as it stood, would bring out more clearly the intentions of its framers.

The Hon'ble Mr. Maine said that he consented to the amendment with pleasure. The Section proposed by Mr. Harington not only empowered the Governor General in Council to exempt any race, tribe, or sect in British India, but also every part of such race, tribe, or sect. If necessary, therefore, it would be possible to exempt Native Christians from the operation of the Act.

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Indian Civil Code, Chapter I, as amended, be passed.

The Hon'ble Mr. Muir moved, as an amendment that, under Rule 29 of the Standing Orders, the Bill as amended in Council be republished, and its consideration deferred for a fortnight. Even within that short period, there would be some opportunity for ascertaining the opinion of the public on the Section which he had opposed.

The Hon'ble Mr. Maine said he saw no necessity for the proposed postponement.

The amendment was negatived.

The original motion was then put and agreed to, and the Bill passed accordingly.

### Stamp Act Amendment Bill.

The Hon'ble Mr. Harington, in moving for leave to introduce a Bill to amend Act X of 1862 *(to consolidate and amend the Law relating to Stamp Duties)*, said that the part of the Stamp Act which the present Bill proposed to amend was the thirty-third Section. By that Section the Governor General of India in Council was empowered to reduce the rate of Stamp Duty on all or any of the deeds, instruments and writings described in the schedules at the end of the Act, or altogether to exempt them from Stamp Duty. It might have been supposed that the Section, as framed, was sufficiently large and comprehensive to enable the Government of India to do all that was necessary and proper in the direction of the Section, and to meet every case in which a reduction of Stamp Duty might be deemed just or reasonable; but experience had shown that the wording of the Section was too restrictive, and that the power given by it required to be enlarged. An application had recently been made to the Government of India to reduce the Stamp Duty chargeable on bonds which were taken under the Indian Customs' Act of 1863. These bonds were at present liable to the same Stamp Duty as all other bonds or obligations for the payment of money. Compared with England, the amount of Stamp Duty on bonds in this country was very

high, and as levied on the class of bonds just mentioned, it was found to press heavily upon trade, and particularly upon the bonders of salt cargoes. Looking to the circumstances under which these bonds were taken, and to the fact that actions to enforce them were very rare, the Government were disposed to view favourably the proposition that had been made for the reduction of the rate of Stamp Duty to which they were now liable, and to follow to some extent the English practice in respect of such bonds; but they were advised that, although they had power to lower the rate of Stamp Duty on bonds generally in the whole or any part of British India, they had not power to reduce the rate of Stamp Duty on any particular class of bonds. The object of the Bill which he had asked leave to introduce was to invest the Government with that power as regarded not only bonds, but also all other deeds, instruments and writings liable to Stamp Duty. It seemed right that the Government of India should have the enlarged powers proposed by the Bill, and in giving them, he thought it might be assumed that the Council would not be acting contrary to the intention of the framers of the existing Stamp Law.

The Motion was put and agreed to.

The Council then adjourned.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

CALCUTTA,
*The 3rd March* 1865.

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*Government of Bengal.*

## Working of the Grant-in-aid System in Bengal.

From the HON'BLE A. EDEN, Secy. to Govt. of Bengal, to Offg. Secy. to Govt. of India, Home Dept.,—No. 6182, dated 31st December 1864.

Education.

I am directed to acknowledge the receipt of the orders of the Government of India No. 582, dated 23rd May last, and in reply to forward copy of a letter No. 2771, dated the 31st August last, from the Director of Public Instruction, on the working of the Grant-in-aid system in Bengal, with the following observations of the Lieutenant Governor, for the consideration of His Excellency the Governor General in Council.

2. The Deputation of the Church Missionary Society appear to urge the following objections to the system of Grants-in-aid as administered in this country:—

1*st.*—That it has failed to give a "stimulus to the exertions of voluntary and independent parties."

2*nd.*—That the action of independent parties is crippled rather than encouraged by the Rules under which the grants are administered by the Local Governments, and that the promoters of Schools are deterred from accepting the benefit of the grants by the various, minute, and complicated requirements of Government.

3*rd.*—That in consequence of these hinderances to the development of the system, "there is a prospect of the whole of the education of India, within a small fraction, devolving upon the resources of Government," and it is insinuated that the expenditure of the Government upon its own Schools was rapidly increasing, and that thus the object of the Despatch of 1854 was being defeated.

3. Mr. Atkinson's letter is, in the Lieutenant Governor's opinion, a complete refutation of the statements of the Church Missionary Society, so far as they relate to the Lower Provinces of the Bengal Presidency, and a masterly defence of the existing and recently amended Grant-in aid Rules, which, in point of simplicity and fairness, as well as adaptation to the wants and circumstances of the country, seem to be scarcely susceptible at present of further improvement.

4. Whilst the direct expenditure of Government on its own educational institutions has been nearly stationary, the increase on Grants-in-aid of private institutions has been most remarkable. Indeed, the fear is not that the demand for Grants-in-aid will be checked by the hinderances imposed by the Rules, but that the demand will far exceed the expectations of Government, and become such a heavy charge upon the State revenues that, in the course of a few years, more stringent conditions will have to be imposed. The expenditure on purely Government institutions has only increased some £1,600 during the last four years; the Grants-in-aid have increased from £9,775 in 1859-60 to £22,958 on the 30th April 1864. In the face of these figures, it is quite incomprehensible that the Church Missionary Society should have any such apprehensions regarding the failure of the system as they profess to have in their letter of the 27th November 1863. The progress of the Grant-in-aid system seems to the Lieutenant Governor to have been as satisfactory as anything possibly could be; and any rate of progress in excess of that which has taken place would, His Honor thinks, warrant considerable apprehension of the overgrowth of the system. The Missionary Societies moreover have less cause to complain of stringent and complicated requirements than any other bodies; the Rules have been relaxed in their favor on several occasions, and every consideration consistent with the main principle of Grants-in-aid has been shown to them.

5. The complaints of the Church Missionary Society are so vague and general as to render specific reply impossible, and, in the absence of some definite statement of their grievances, it is difficult to surmise what impediments and complicated requirements they allude to. If they had ground of complaint in any particular instances, their representations would have received, as they have always done, the earnest consideration of the Lieutenant Governor.

6. In regard to paragraph 6 of the Secretary of State's Despatch, the Lieutenant Governor observes that, exclusive of Schools under other Christian bodies, there are 145 Schools under Missionary Societies, receiving annual grants aggregating £4,868.

7. In respect to their proposal that more liberal grants should be given to independent Schools, the Lieutenant Governor thinks that the Director of Public Instruction shows very clearly that no such change is required, and would indeed be highly inexpedient.

8. The Lieutenant Governor is quite convinced that a system of grants by capitation allowances or results is wholly inapplicable to this country, and to the machinery at the disposal of Government for conducting examinations. It would be expensive, and in practice would prove to be in every

way unsatisfactory. Its introduction would inevitably result in heart-burning, discontent, and charges of unfair treatment of particular Schools. It would, moreover, have a directly opposite effect on the grants to Missionary Schools to that which the Society appear to anticipate.

9. The establishment of training institutions, which forms the third recommendation of the Deputation, has already received the earnest attention of Government. There have been for some little time past fourteen Training Schools in the Lower Provinces, and their number has just been increased by the establishment of four new Training Schools at Purneah, Behar, Sarun, and Bhaugulpore. The excellent working of the experimental system of Vernacular Training Schools under Baboo Bhoodeb Mookerjee has already been brought to the notice of the Secretary of State, and has received his approval.

10. His Honor desires me to take this opportunity of drawing the special attention of the Government of India, as well as of Her Majesty's Secretary of State, to the 17th paragraph of Mr. Atkinson's letter, which contains, as the Lieutenant Governor conceives, a true exposition of the main principle by which the Government of India ought to be guided in its efforts to educate the people of India, or, at any rate, the people of Bengal. The education of the people at large, not of a particular class, is the object which all, Government as well as Missionaries, have in view, and the question simply is whether this object can best be accomplished,—

(1.) By the direct agency of Government, or of Missionary bodies occupying, relatively to the Natives in respect to education, the position of the Government; or

(2.) By the agency of the people themselves, supplemented by such assistance as the resources of the State or the Funds of Missionary bodies can afford.

To this question, the Lieutenant Governor thinks there can be but one answer. It is obvious, indeed, that neither the resources of the State, whether they be administered through the Officers of an organized Department, or through the means of Missionary Agents, can suffice or nearly suffice even for the partial accomplishment of this great work, and that for the education of the masses, the main dependence must be, both for the work itself, and for the means of carrying it out, on the Natives themselves.

11. While, therefore, by giving Grants-in-aid on liberal, simple, and intelligible principles towards the establishment of Schools of all grades, Government rightly encourages every visible desire on the part of Natives to obtain education for their children; while, with equal propriety, it affords to Missionary bodies the means of pursuing a similar course; and while it establishes Normal Schools for the training of qualified Teachers, its main reliance must continue to be, as it has heretofore been, on its English Colleges and Zillah Schools, in which young men, chiefly of the higher classes, are educated up to a high standard, and are not only qualified for employment in the higher offices of the Public Service, and in the various professions and occupations which demand a comparatively high standard of intellectual acquirements, but become capable also of creating by their example and influence a general thirst after useful knowledge, and are willing, as experience shows, to take an active part in imparting it to their countrymen.

12. With this view, the Lieutenant Governor, while embracing every opportunity of placing the means of education within the reach of the lower classes, through the instrumentality of Vernacular and Anglo-Vernacular Schools, partly supported by funds raised either by religious and benevolent associations, or by private individuals, feels assured that, for a long time to come at all events, the maintenance of the Government Schools and Colleges is the great instrument to which Government must trust for the spread of education in Bengal.

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From W. S. Atkinson, Esq., Director of Public Instruction, to Secy. to Govt. of Bengal,—No. 2771, dated Darjeeling, the 31st August 1864.

I have the honor to acknowledge the receipt of your endorsement No. 1114 T, dated 28th June, forwarding for report a resolution of the Government of India, in the Home Department, with papers annexed, on the subject of the administration of Grants-in-aid in India.

2. The Despatch of Her Majesty's Secretary of State, on which the resolution of the India Government is founded, had its origin in suggestions offered by the governing body of the London Church Missionary Society, as embodied in a letter addressed to Sir Charles Wood, under date 27th November 1863, which is appended to his Despatch. In this letter the Society complains that the Grant-in-aid system in this country has failed, and that the failure is mainly attributable to the rules under which it has been worked. In Bengal, it is said, "various, minute, and complicated requirements are attached to Grants-in-aid which deter many Schools from accepting the benefit," and it is further remarked as objectionable that "no distinction is made between the scale of grants to the higher grades of Schools in large towns where local resources abound, and to Vernacular and Village Schools which are wholly dependent on external aid."

3. Now, with regard to this last objection, I have only to reply that the state of things complained of does not now, and never did, exist. It is true that the old rules made no express provision for graduating grants with reference to the status of the Schools applying, but it is no less a fact that the amounts sanctioned have always been determined with reference to such considerations under the general provisions set forth in paragraph 1, which declared that "the Local Government, at its discretion, and upon such conditions as may seem fit in each case (reference being had to the requirements of each District as compared with others and to the funds at the disposal of Government), will grant aid." Paragraph 6 declared that no grant would "in any case exceed in amount the sum expended on the Institution from private sources," thereby fixing the maximum amount which Government was prepared to sanction with reference to local expenditure, but leaving the actual amount to be determined, as it always has been in practice, with reference to the circumstances of each particular case. In Calcutta indeed it was long ago ruled that no grants should be given at all to English Schools of the higher class, inasmuch as it was known that such Schools were there not only self-supporting, but yielded considerable profits. It will be seen, therefore, that the Society is mistaken on this point

as regards the operation of the old rules, whilst in the new rules the principle of graduation, which they advocate, has been specifically adopted.

4. It is more difficult to dispose of the allegation regarding the obstruction said to be caused by "minute and complicated requirements" attached to grants. No instances are given, and it is impossible to say what is really complained of. If the requirements objected to are to be looked for in the rules, I should suppose that they must be those relating to fees and to inspection by Government Officers.

5. As regards fees, the rates charged in Missionary Schools are generally very considerably lower than those levied in other Schools of the same class, whether under the control of Government or of Native Managers, and when they apply for aid, there is always a struggle to keep the fees at the lowest point possible, besides which a demand is frequently made to be allowed to retain a free list. The reason is, that hardly any Native will send his children to a Missionary School if he can afford to send them to a good secular School of the same class. The Missionaries, therefore, feel that they can only compete with other Managers by offering their wares at cheaper rates. The plea is always allowed to a certain extent, but it is so important to train the people to feel the value of education and to make sacrifices for the attainment of it, that even if it were just to make large allowances to Missionaries which are refused to Native Managers, I should not think it expedient to concede what is often asked in this respect; for, in the case of Mission Schools, fee payments are all that is required from the people who profit by them. There are no subscriptions, and the people are allowed to take no part in the management,—so that the valuable lessons of self-reliance and self-government which the system teaches in its application to Schools of Native origin are here almost entirely wanting. A free list is often asked for by Native Managers as well as Missionaries, but it is always refused as liable to grave abuse. Applicants are told that they are at liberty to pay the fees of any or all of the students from such private funds as they can dispose of for the purpose, but that such payments must not be made from the funds of the School. There is probably hardly a School in which there are not pupils who are paid for by the charity of their neighbours; and in some cases, where the Projector of the School is a man of wealth, the fees of every student are defrayed out of his private purse. No objection is made to such arrangements, but I am satisfied that the principle we have adopted is the right one, *viz.*, to fix the rates of fees at reasonable amounts with reference to the standard of instruction, the locality, and the amount of the Government Grant, and to insist that the fee of the class shall be paid by or for every pupil whose name is on the Register. Without the latter provision, it would probably soon be found that the free list would in many cases be filled with the children or relatives of the School Managers.

6. With regard to inspection there is still much diversity of opinion among different bodies of Missionaries. Some entertain strong objections to any kind of supervision, and are particularly averse to the rule which subjects the books and accounts of Aided Schools to the inspection of a Government Officer. It has been urged that this rule is derogatory to the dignity of a Missionary, and puts dishonor on "a Minister of the Gospel," because it implies a doubt of his honesty. It is hardly necessary to combat this objection, but I shall simply state that experience has shown that this sort of supervision is quite as necessary in the case of Mission Schools as it is in the case of Schools under Native Managers. The Church Missionary Society has never urged this objection, and none of its Agents object to inspection by Christian Officers, but some of the Missionaries employed by it, in common with many connected with other bodies, object to their Schools being visited by the Native Deputy Inspectors. This feeling is not, however, universal. One well-known Missionary of the Church Missionary Society near Calcutta has always courted the visits of the Native Deputy Inspector in whose District his Schools are situated; and some time ago, on the occasion of my visiting Cherra Poonjee, the head of the Welsh Presbyterian Mission made a particular request to me that I would appoint a Native Officer of this class for the District, as the best assistance he could have in supervising the Schools under his management. I may add that very recently when Dr. Duff applied for and obtained Grants-in-aid for a system of Schools established by him near Calcutta, he admitted to me the necessity of subjecting these Schools, in common with others of the same class in the neighbourhood, to the inspection of the Native Officer of the District. When the Grant-in-aid system was first brought into operation, many Mission Schools were exempted from this sort of supervision in deference to the urgent remonstrances of the applicants, but the result, as far as those Schools themselves are concerned, has not been satisfactory, while the privilege conceded to them, if privilege it can be called, has naturally excited the jealousy of the Natives and given cause for a charge of partiality in favor of alien bodies, which is mischievous in proportion as it is well founded.

7. I have mentioned, I believe, all the objections that have been generally raised on the score of inspection. It is hardly necessary to advert to other points of minor importance connected with it—such as objections to the forms of Bills and Returns required; or to other points which, though of serious importance, have only been taken up by individual objectors—such as the prohibition which forbids Inspectors to examine the scholars in religious subjects. As regards the former class of objections, no remarks are called for; and as regards the latter, I shall simply say that I should regard any relaxation of the prohibition referred to as a serious calamity.

8. Amongst objections of a different character that have been urged against the existing rules, it may be well to advert to that which relates to the provision against the substitution of public for private expenditure. It is difficult at first sight to see the ground of this objection, for the provision is obviously sound in principle and in strict accordance with the axiom on which the Grant-in-aid system is founded, *viz.*, that people should be assisted in proportion as they are willing to assist themselves. The religious bodies are, however, consistently bent on obtaining the greatest possible control over the education of the people; and hence, as their funds are limited, they are naturally anxious, after their own resources are exhausted, to get into their hands the money of the State to be expended in accordance with their own particular views. Now I certainly see no

reason why this should be allowed. The great object of the Grant-in-aid system was to stimulate *Native* effort, and to call forth the private resources of communities in aid of such funds as the State can properly spare for the education of the people. In these respects it must certainly be admitted that it is now succeeding admirably in the Provinces under His Honor's Government. It raises annually for the purpose of education very large and steadily increasing sums by means of voluntary assessment, and it is teaching the people most valuable lessons in self-help and self-government. In the case of Missionary Schools these advantages are altogether wanting. The people contribute nothing in the form of subscriptions, and the fees they are called upon to pay are almost always, as I have already stated, much lower than in other Schools of the same class, whether under Native Managers or under the direct control of Government. Moreover, the people are allowed no voice whatever in the management of the Schools, these being controlled directly by the nearest resident Missionary, under the general orders of some Central Committee in Calcutta or elsewhere. Apart, therefore, from the value of the religious instruction conveyed in them, with which the Government has no concern, the only advantage possessed by Missionary Schools over those under Native management arises from the European supervision which those of them enjoy which are maintained in the same Station with a resident Missionary. Those at a distance from him are in no better but rather in a worse position than the Native Schools which have a School Committee resident on the spot. I do not underrate the value of the superior attainments and moral influence which the Missionary brings to bear on the Schools under his immediate eye—but against this is to be set the loss of the incentives to exertion and of the trainiug to the performance of public duties, which are conspicuous advantages in the case of Schools established and maintained by the people themselves. I hold, therefore, that there would be no gain, but the contrary, in any change of system which had for its object to enable Missionary bodies to set up new Schools at no expense to themselves or to the people who are to benefit by them. If Schools are to be maintained at the public cost, there is no reason why they should be confided to the management of Missionary Committees. They can be established more cheaply, and would be maintained more effectively by the direct agency of this Department.

9. To a certain extent, however, the object which the religious bodies have in view is favored by the alteration in the rules which allows fees to count as income in respect of which Grants-in-aid are sanctioned. In many cases they will be able, if they choose, to establish Schools and retain them under their own management by means of the funds derived from the Government Grant and the schooling fees alone, without the necessity of drawing a Rupee from their private purse. I apprehend, therefore, that less will in future be said in condemnation of the clause which declares that private expenditure shall not be relieved at the expense of the State.

10. I am not aware of any other Missionary objection to the Bengal rules which calls for remark, but it is necessary to draw attention to the extraordinary statement put forth in the 9th paragraph of the Society's letter, which quotes figures in proof of the assertion that the anticipations of the Despatch of 1854 have been defeated, and that instead of the Grant-in-aid principle being allowed to assume a prominent place in the educational system, there is on the contrary "a prospect of the whole of the education of India, within a small fraction, devolving upon the resources of Government."

In support of this assertion it is stated that, "according to the last Returns, while £18,414 was granted in aid of independent Schools, £2,64,870 was spent upon Government education" throughout the whole of India.

It is not stated what are "the last Returns" referred to; but as I find in a Missionary pamphlet on the subject the same figures given for the amount of aid to independent Schools in the year 1861-62, it may be assumed that the writers of the letter supposed they were quoting from the statistics of that year. I shall show that the Returns of this Department throw extreme doubt on the accuracy of their quotation, and that, so far at least as regards the Lower Provinces of Bengal, the inference deduced from it is in no common degree erroneous.

11. I have carefully gone through the Returns of the actual amounts disbursed by Government, during each of the four years ending 30th April 1863, on account of its own Institutions for general education, and on account of private Institutions for the same purposes to which it is a contributor. The result is exhibited in the following table:—

*Statement showing the amounts disbursed by the State on account of Government and Private Institutions for general education.*

| Years. | Government Institutions. | | | Private Institutions. | |
|---|---|---|---|---|---|
| | | £. | £ | | £ |
| 1859-60 | Colleges ... ... | 11,684 | | | |
| | Schools ... ... | 24,030 | | | |
| | | | 35,714 | Schools ... | 9,775 |
| 1860-61 | Colleges ... ... | 11 951 | | | |
| | Schools ... . | 24 354 | | | |
| | | | 36,305 | Ditto ... | 9,821 |
| 1861-62 | Colleges ... ... | 12.084 | | | |
| | Schools ... ... | 24,292 | | | |
| | | | 36,376 | Ditto ... | 12,284 |
| 1862-63 | Colleges ... ... | 11,914 | | | |
| | Schools ... ... | 25,410 | | | |
| | | | 37,324 | Ditto ... | 16,598 |

To prevent misapprehension, I may explain that the expenditure on direction and inspection is here excluded, as is also the large grant for English and Vernacular Scholarships, since in these Provinces every scholarship is open alike and on the same terms to the pupils of Government and private Institutions without exception. The Professional Colleges and Schools for Law, Medicine, and Civil Engineering, are also excluded, as they are obviously not terms in the comparison.

12. Now this table shows that during the year referred to by the Society, the allowances to private Institutions in Bengal alone amounted to £12,284 against £36,376 devoted to Government Institutions. In other words, more than one-fourth of the entire expenditure upon direct instruction of a general character was employed in support of private Institutions, whereas the figures quoted by the Society are meant to imply that less than one-fourteenth part of the Government expenditure was so distributed.

But the table further shows how rapidly the proportion is now altering in favor of independent Institutions. In 1860-61 the percentage was 27·0; in 1861-62 it was 33·7; and in 1862-63 it had risen to 44·4.

13. The Accountant-General's Department has not yet furnished me with the Statement of the Receipts and Disbursements of 1863-64, but it is quite certain that the percentage for that year has been at least equally progressive. On the 30th April last the *sanctioned annual allowances* to private Institutions (exclusive of the considerable sum spent in improving indigenous Schools) amounted to £22,958, as shown in the annexed Statement, against £15,668 on the same date of the preceding year :—

*Statement showing the distribution of Government Allowances to Private Institutions, as sanctioned on 30th April* 1864.

| Institutions receiving Aid. | Number of Schools. | | Annual Grant. | |
|---|---|---|---|---|
| *Under the Grant-in-aid Rules.* | | | £ | £ |
| Under Missionary bodies ... ... ... ... | 67 | | 3,668 | |
| „ other Christian bodies ... ... ... | 8 | | 1,410 | |
| „ Native Managers ... ... ... ... | 574 | | 15,356 | |
| | | 649 | | 20,434 |
| *Under other Rules.* | | | | |
| Under Missionary bodies ... ... ... ... | 78* | | 1,200 | |
| „ other Christian bodies ... ... ... | 2 | | 1,324 | |
| | | 80 | | 2,524 |
| Total ... ... ... | | 729 | | 22,958 |

14. An analysis of this Statement, as regards the distribution of allowances under the Grant-in-aid Rules, will, I think, prove incontestably that the Missionary bodies have no right to be dissatisfied with the share assigned to them out of the Grant-in-aid Fund; for it appears that, while the number of their Schools is less than 12 per cent. of the number under Native Managers, the annual grant sanctioned for them amounts to very nearly 24 per cent. of the amount assigned to the latter. It is true that the sixty-seven Missionary Schools contained proportionally more scholars than the 574 Schools under Native Managers,—the actual numbers being 4,745 in the former and 28,937 in the latter,—but taking these figures for the comparison, it still results that while Missionary Schools receive nearly 24 per cent. of the money assigned to Native Managers, they are not engaged in instructing more than 16½ per cent of the number of pupils in Schools of the other class.

15. Nor can it be said that this disparity is compensated by the superior attainments of the scholars in Mission Schools. They are not only not superior but are actually vastly inferior, as I shall show by a comparison of the results obtained at the two great Annual Examinations at which all Schools compete on equal terms, *viz.*, the University Entrance Examination, in respect of which Government Junior Scholarships (English) are awarded, and the Vernacular Scholarship Examination conducted by the Divisional Inspectors of Schools. The Returns show that at the last award the Aided Mission Schools gained three English Scholarships, but not one Vernacular Scholarship;† while the other Aided Schools gained seventeen English Scholarships and 192 Vernacular Scholarships. From this it results that the average proficiency of the best scholars in Aided Mission Schools reaches no higher than 1·5 per cent. of the proficiency in Aided Schools of the other class; this enormous disparity being due to the fact that the standard of secular instruction is fixed, as a rule, at a much lower point in Schools conducted by Missionaries than in Schools conducted by Native gentlemen.

16. I confidently trust that I have now succeeded in showing to the satisfaction of Government, that, as far as regards the Lower Provinces of Bengal, the alleged failure of the Grant-in-aid system is not a fact; but that the system is on the contrary making rapid progress, and that, too, in the direction where progress is most important, *viz.*, among the Native subjects of Her Majesty for

* This number is approximate only The Schools are those maintained amongst the Koles, Sonthals, Khasias, and other uncivilized tribes.

† The Scholarships gained by them in the three years preceding were—

| | *English.* | *Vernacular.* |
|---|---|---|
| 1861... | 4 | 0 |
| 1862... | 3 | 0 |
| 1863... | 3 | 0 |

whose especial benefit the scheme was originally framed.

17. It would be out of place on the present occasion to discuss at any length the causes which have led to this success, but I cannot refrain from pointing out that we have here the direct and natural result of the policy which has governed the administration of education in these Provinces for the last quarter of a century, in accordance with which a large number of first class Institutions (Colleges and Schools) have been established throughout the country by Government, in which a sound and liberal education has been provided for the upper and middle classes of the people. These classes have largely availed themselves of the boon thus offered, and the fruits are now appearing in the desire and determination which they are manifesting to aid in imparting to others the advantages which they have reaped themselves, and of which actual experience has taught them the inestimable value. We invariably find that it is under the shadow of our great Schools and Colleges, and owing to their direct influence, that private Schools spring up in the greatest numbers and meet with most success; and I regard it as beyond all question that the increase of these latter, and the future condition of such of them as are already in existence, will continue to depend on the maintenance and improved efficiency of the superior Government Institutions, which are the models after which all other Institutions established with the same object are invariably fashioned. If this policy is persisted in, so marked has now become the desire of the people to avail themselves of the advantages which the present aid rules afford, that I am satisfied the increase of Schools under the provisions therein contained is much more likely to be checked by the inability of Government to supply the funds required than by any failure in the popular demand.

18. I now proceed to remark on the suggestions put forward in the 10th paragraph of the Society's letter. The first of these suggestions proposes generally that more liberal grants should be given to private Schools than have hitherto been sanctioned. After what has been advanced above, it is not necessary to say more on this point than that increased liberality on the part of Government is quite unnecessary as far as Bengal is concerned. Already, in not a few cases, private Schools receiving aid under the operation of the rules till recently in force are actually more costly to Government, scholar for scholar, than its own corresponding Institutions of the same class (which are also more efficient), although the latter are commonly spoken of as *supported entirely by Government*, while the former are only said to be *aided*. Her Majesty's Secretary of State remarks that it was anticipated that, under the Grant-in-aid system, "education might be more widely spread with a comparatively less expenditure of public money." This, I apprehend, must still be regarded as the economical end to be kept in view in framing measures for the administration of the system, and if it be so, there can be no question but that the scale by which grants are fixed under the existing rules is to the full as liberal as the Government can properly concede, or as the circumstances of the country require.

19. The second suggestion recommends that "Schools should be allowed the option of receiving aid according to the Revised Code in England by capitation allowances upon results ascertained by Government Examinations." On this point the Secretary of State remarks that he is not satisfied that this system is as applicable in India as it is in England, and I have no hesitation in asserting that it is not applicable in Bengal.

20. In the first place it would involve of necessity a vastly increased expenditure on account of inspection. Valuable and indispensable as are the Native Deputy Inspectors, it certainly would not be advisable to entrust them with the assessment of the amount of aid to be assigned to the various Schools within their District. It is not that I should fear in most cases intentional partiality. As a rule, I believe, they would honestly endeavour to be fair in their decision; but I have not altogether the same dependence on the correctness of their judgment; and it is quite certain that they would not in such a matter enjoy the implicit confidence of their own countrymen, and still less of the Missionary bodies with whom they must be brought in contact; yet, under the proposed system, it would be absolutely necessary either to entrust them with a power which they could not exercise to the satisfaction of the public, or else to supersede them in a measure and multiply three or four-fold the highly paid European Inspectors, of whom at present we have no more than five, for a country larger than France, with a population of 40,000,000.

21. I believe that even under the present system some increase to their number may shortly become necessary, but I would confine this increase within the narrowest limits, and would frame our measures in such a way that they may be worked to the greatest extent possible by Native Agency. This is unquestionably, in my opinion, our true policy, for it is only under this condition that education can ever spread widely, or take root deeply without an extravagant expenditure of the public resources of the State.

22. To show how impossible it would be for the Divisional Inspectors under present arrangements to take upon themselves the duty of assigning grants by capitation allowances, depending on the attainments of the scholars or even on the general condition of the Schools, it will be enough to state that the two senior Inspectors have at the present time under their charge 468 and 559 Schools, respectively, and that the average area of each Inspector's jurisdiction is about 36,000 square miles, a territory considerably larger than the whole of Ireland.* For England and Wales, on the other hand, there are no less than sixty School Inspectors, with small and compact Districts under their charge, and the Returns for last year show that on the average each Inspector visited no more than 191 Schools or Departments of Schools, which are probably equivalent to less than 150 separate Institutions.

23. But, again, supposing that this difficulty were overcome and the number of Inspectors were augmented to any extent that might be necesrary, it must be remembered this even when the Inpectors are highly educated English gentlemen, much dissatisfaction will still inevitably arise from the new relations that would subsist between these Officers and the School Menagers. The grants would depend solely and absolutely on the reports of the Inspector after each of his periodical visits, when he must be brought into direct personal contact with the Missionaries or Native Committees

* The area of Ireland is 32,508 square miles

and the Masters. There would be probably hardly a School that would not feel itself more or less aggrieved by his award; and instead of being regarded as a friend and received, as now, with a ready welcome, he would come to be looked upon as a disagreeable inquisitor, and a hard and disparaging task Master. The duty would in fact be a most invidious one, and no Inspector would willingly undertake it.

24. There are, however, other reasons which make the principle of the Revised English Code unsuitable for Bengal. In England the Schools aided by the State are all designed for the lower classes, and in none of them does the standard of instruction differ materially either in the same District or in distant parts of the country. A simple scale of allowances can, therefore, be framed and worked without material difficulty. In Bengal, on the contrary, the Institutions receiving aid are of every possible class, ranging from Colleges affiliated to the University, which educate students up to the standard of the M. A. Degree, down to primary village Schools, in which the simple elements of reading, writing, and arithmetic are taught by Gooroos whose remuneration is not more than 15 shillings a month. Between these two extremes there are Schools of every conceivable grade; so that a system of paying for results would require the arrangement of a most complicated scale of allowances even in the same District, while this scale must again vary indefinitely for Schools of the same class in different parts of the country, since rates that would be suitable for the most forward Districts would be utterly unsuited to other Districts in different stages of advancement.

25. The uncertainty which such a system must occasion as to the available income of a School, and the consequent insecurity of the Masters' salaries, is another argument against this change to which considerable weight must be attached. Even under the present system, where the income of an Aided School is comparatively fixed and certain, appointments in Government Schools are eagerly sought by Masters who would require salaries from 25 to 50 per cent. higher in Aided Schools; and it appears certain that appointments in these Schools would be still further depreciated by a change which would make the salaries depend in great measure on the daily attendance of the scholars, over which the Masters have in reality but little control. In Mission Schools, indeed, this uncertainty would tell with vastly greater force than in Schools of any other class, inasmuch as they are subject to far greater fluctuations in the number of their scholars. In their case, if a conversion takes place, the School is at once emptied, and perhaps remains closed for months, and an imaginary offence against caste will often produce a secession hardly less disastrous. On this ground alone, therefore, it seems surprising that a capitation system should be looked on with favor by the governing body of the Church Missionary Society.

26. It must not, moreover, be lost sight of in considering the probable results of the change proposed that under a capitation system the temptation to falsify the Registers, which even now exists to some extent, must be enormously intensified, and would become, it may be feared, in many cases irresistible.

27. The Church Missionary Society proposes that the adoption of the system of the Revised Code should be left to the option of the School Managers. Now, I need hardly point out that, if a choice is thus allowed, every single School will adopt the new system, if the scale of allowances is so arranged that they would find themselves pecuniary gainers by the change. The rates must, therefore, be fixed in such a way that the average payments by the State are not enhanced, supposing every School to claim its grant on the capitation system; since, as I have already stated, it is neither necessary nor desirable that the public contributions should be on a more liberal scale than they are at present. To adjust the balance between the proposed arrangement and that at present in force, would be a task of considerable difficulty, and after all, I believe, it would be found in practice that a double standard could not be maintained.

28. It is certain, however, that after an equitable adjustment of the scales, the immediate effect of the adoption of the new system by the Missionary Schools would be to diminish very largely the amount of the grants now allotted to them. The statistics already given furnish the following comparative statement of work done and money received by Schools under Native Managers and Schools under Missionary bodies:—

| Aided Schools. | Relative Work done. | | Relative cost to Government. |
|---|---|---|---|
| | Scholars taught. | Proficiency. | |
| Under Native Managers ... | 100 | 100 | 100 |
| Under Missionary bodies ... | 6·51 | 1·5 | 23·8 |

From this it appears that the aggregate of the grants to Schools of all classes remaining the same, the Missionary bodies would, under a capitation system, depending solely on attendance, receive no more than 16*s.* 6*d.* where they now receive 23*s.* 9½*d.*, and that, as far as the evidence of the present competitive Examinations afford a test, they would receive no more than 1*s.* 6*d.* instead of 23*s.* 9½*d.*, if the grants were made to depend solely on the proficiency of the scholars. It may safely be assumed, therefore, that if an option were given, and the rates are properly adjusted, the Missionary bodies at least would certainly not elect to receive grants assessed according to the out-turn of their Schools.

29. Where the conditions are the same, the principle of graduating payments according to result is no doubt within certain limits a sound one; but for the reasons above stated, and for others of less importance which need not here be specified, I am convinced that the introduction into these Provinces of the principle of the Revised Code of the Privy Council or of any modification of it, would not only be no improvement on the arrangements now in force, but would lead to exceedingly inconvenient consequences, and prove a decided check on the development of the Grant-in-aid system, which, as has already been shown, is here making most satisfactory progress.

30. The remaining suggestion of the Society relates to the encouragement to be afforded to the establishment of Normal Training Schools. Under the present rules such Institutions can obtain grants equal in amount to the income guaranteed from private sources, and fee payments are not required from the students. These terms I consider sufficiently liberal. On the application of the Church Missionary Society, a grant has been very recently sanctioned on these conditions for a Training School at Kishnaghur, and there will be no objection to assigning grants on like terms to a moderate number of similar Institutions. Such Schools are, however, specially designed for Native Christians, and but few of them can therefore be required for Lower Bengal.

Fourteen Government Training Schools are now sanctioned for the Districts comprised within His Honor's jurisdiction. These are of course purely secular Institutions, and are open to all classes without restriction. They must, therefore, be much more generally useful than Institutions conducted by religious bodies, and therefore mainly confined to a particular creed. Their number will soon, I trust, be considerably augmented, so that full provision may be made for promoting improved education among the masses of the people.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 10.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 11, 1865.

## Home Department.

### LEGISLATIVE.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information :—

ACT No. IV OF 1865.

*An Act to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras or Bombay, from the operation of the twenty-sixth Section of Act No. VIII of* 1855.

Preamble.

WHEREAS under or by virtue of the twenty-sixth Section of Act No. VIII of 1855 *(to amend the Law relating to the Office and Duties of Administrator-General)*, the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration; And whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an Officer or Soldier dying on service exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be; It is enacted as follows :—

Interpretation Clause. "Officer."

**1.** In this Act—

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

**2.** From and after the passing of this Act, the twenty-sixth Section of Act No. VIII of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

Short Title.

**3.** This Act shall be called "The Administrator General's Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd February 1865, and is hereby promulgated for general information :—

ACT No. V OF 1865.

*An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.*

Preamble.

Whereas it is [illegible]dient to provide further for [illegible] solemnization of marriages [illegible] India of persons professing the Christian Religion; It is enacted as follows :—

*Preliminary.*

Short Title.

**1.** This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

**2.** This Act shall extend to all the territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

**3.** From and after the commencement of this Act, Act No. XXV of 1864 is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation Clause.

**4.** In this Act, unless there is something repugnant in the subject or context—

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of England." "Anglican."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Scotland."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church of Rome." "Roman Catholic."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Church."

"Minor" means a person who has not completed the age of twenty-one years.

"Minor."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Native Christians."

"Section" means a Section of this Act.

"Section."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Month" and "Year."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

"Local Government."

## Part I.

*As to the persons by whom marriage may be solemnized.*

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

**5.** From and after the commencement of this Act no marriage between persons one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

**6.** Marriages may be solemnized in India—

(1.) By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which such person is a Minister.

(2.) By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

(3.) By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 *(for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty entituled an Act for Marriages in India)* of the Governor-General of India in Council.

(4.) By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

(5.) By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

**7.** From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 *(for the solemnization of marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

**8.** From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

**9.** From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections, shall be null and void.

Marriages solemnized before 1st May 1865 by certain persons to be deemed valid.

**10.** All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

## Part II.

*As to the mode of solemnizing Marriages under this Act.*

Notice of intended marriage.

**11.** In every case of intended marriage between persons one or both of whom shall profess the Christian Religion, otherwise than—

1.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852: or

2.—By a Clergyman who has received episcopal ordination according to the rites, rules, ceremonies and customs of the Church to which he belongs: or

3.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies and customs of that Church: or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Proviso.

**12.** The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Publication of such notice.

**13.** If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice of intended marriage in private dwelling.

**14.** When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Notice when one of the persons intending marriage is a minor.

**15.** The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Publication of such notice.

**16.** If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Appointment of Senior Marriage Registrar.

**17.** Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made: Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Issue of certificate of notice given and declaration made.

Proviso.

**18.** When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

In case of minority certificate not to issue until fourteen days after receipt of notice.

**19.** Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Declaration to be made before issue of certificate.

**20.** The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor and, in case there be no such guardian, then the mother of such minor,

Consent of parent or guardian when necessary.

shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

**21.** Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

**22.** If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

**23.** When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

**24.** The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

**25.** After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

**26.** Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I of this Act.

**27.** Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

## Part III.

*As to the time for solemnizing Marriages.*

Hours between which marriages to be solemnized.

**28.** Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction; Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

Proviso.

## Part IV.

*As to the Registration of Marriages in India.*

Marriages with certain exceptions to be registered as hereinafter prescribed.

**29.** All marriages solemnized in India from and after the commencement of this Act between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

Registration of marriages solemnized by Clergymen of the Church of England.

**30.** Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly Returns to Archdeaconry.

**31.** Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the

Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such Quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

**32.** Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

**33.** Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England, of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

**34.** After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

**35.** The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

**36.** The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

**37.** Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

**38.** The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of Marriages solemnized under Part V of this Act.

**39.** The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said district, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said district; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

**40.** The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India

in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths and Marriages.

Correction of errors.

**41.** Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

**42.** Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year, the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

**43.** All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

**44.** Every certified copy, purporting to be signed by the person entrusted under this Act with the icustody of any Marriage Regester or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

**45.** Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio*.

**46.** Every Marriage Registrar hereafter appointed under the provisions of Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

## Part V.

### *As to the Marriage of Native Christians.*

Power to license persons to grant certificates of Marriage between Native Christians.

**47.** And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

**48.** It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

(3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

**49.** When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

**50.** All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Marriages performed under the provisions of Section 48 to be valid.

**51.** A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Register Book to be kept.

**52.** Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Searches to be allowed in the Register Book.

**53.** This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

Part V not to apply to Roman Catholics.

## Part VI.

### *As to Penalties.*

**54.** Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

**55.** Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

**56.** Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts)*.

Punishment for a person not duly authorized, solemnizing a marriage.

**57.** Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Punishment for solemnizing a marriage otherwise than between six A. M. and seven P. M. or without witnesses.

**58.** The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Section 57 not to apply to marriages solemnized under licenses.

**59.** Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage, when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in

Punishment for solemnizing marriage when either party is a minor within a certain time after notice.

the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

**60.** Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome solemnizing marriages without publication of notices, &c.

**61.** Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act, by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

**62.** Whoever not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate, intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

**63.** Whoever shall willfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Jurisdiction to try persons for offences punishable under this Act.

**64.** Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil Jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Code of Criminal Procedure applicable to investigations and committals under this Act.

**65.** Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

**66.** The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

SCHEDULE A—(See Section 11.)

*Notice of Marriage.*

To *the Reverend John Brown*, a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

| Name. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(Signed) *James Smith.*

(The *Italics* in this Schedule are to be filled up as the case may be and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE B—(See Section 24.)

*Registrar's Certificate.*

I, *the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal,* do hereby certify, that on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say),

| Names. | Condition. | Rank or Profession. | Age. | Dwelling Place. | Length of Residence. | Church, Chapel or place of worship, in which the marriage is to be solemnized. | District in which the other party resides when the parties dwell in different Districts. |
|---|---|---|---|---|---|---|---|
| *James Smith.* | *Widower.* | *Carpenter.* | *Of full age.* | *16, Clive Street.* | *23 days.* | *Free Church of Scotland Church, Calcutta.* | |
| *Martha Green.* | *Spinster.* | ..... | *Minor.* | *20, Hastings' Street.* | *More than a month.* | | |

and that the declaration required by Section 19 of "The Indian Marriage Act, 1865, has been duly made by the said (*James Smith*).

Date of notice entered *sixth July* 1865.
Date of certificate given *twentieth July* 1865.
} The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *Twentieth* day of *July one thousand eight hundred and sixty-five,*

(Signed) *John Brown,*
*Minister of the Free Church of Scotland.*

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE C.—(See Section 30.)

*Form of Register of Marriages.*

Quarterly Returns
of
MARRIAGES
for
The Archdeaconry of ... { *Calcutta,* *Madras,* *Bombay,*

I Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } as made and transmitted to me for the Quarter commencing the *First* day of *October* ending the *Thirty-first* day of *December,* in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

*Signature of Registrar.*

Registrar of the Archdeaconry of { *Calcutta,* *Madras,* *Bombay.*

MARRIAGES solemnized at { *Allahabad,* *Barrackpore,* *Bareilly,* *Calcutta, &c., &c.*

| When married. | | | Names of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of marriage. | Father's Name and Surname. | By Banns or License. | Signatures of the Parties. | Signatures of two or more Witnesses present. | Signature by whom married. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year. | Month. | Day. | Christian. | Surname. | | | | | | | | | |
| | | | | | | | | | | | | | |

SCHEDULE D.—(See Section 34.)

MARRIAGE REGISTER BOOK.

| No. | When Married. | | | Name of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Day. | Month. | Year. | Christian. | Surname. | | | | | |
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra... | Wm. White. |
| | | | | Martha.. | Duncan... | 17 years | Spinster. | ..... | Agra.. | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan*, } In the presence of us { *John Smith.* / *John Green.* }

CERTIFICATE OF MARRIAGE.

| No. | When Married. | | | Name of Parties. | | Age. | Condition. | Rank or Profession. | Residence at the time of Marriage. | Father's name and surname. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Day. | Month. | Year. | Christian. | Surname. | | | | | |
| 1 | 26th | July | 1865 | James ... | White ... | 26 years | Widower. | Carpenter | Agra | Wm. White. |
| | | | | Martha.. | Duncan... | 17 years | Spinster.. | ..... | Agra.. | John Duncan. |

Married in the Free Church of Scotland Church, Agra.

*John Young*, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White* / *Martha Duncan*, } In the presence of us { *John Smith.* / *John Green.* }

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd February 1865, and is hereby promulgated for general information :—

ACT No. VI OF 1865.

*An Act to continue Act No. XXXI of 1860.*

Preamble.

WHEREAS Act No. XXXI of 1860 *(relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases)*, is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows :—

Act XXXI of 1860 continued.

**1.** Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

**2.** This Act may be cited as "The Arms' Act Continuance Act, 1865."

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VII OF 1865.

*An Act to give effect to rules for the management and preservation of Government Forests.*

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows :—

Interpretation clause.

**1.** In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood, or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor-General in Council to exercise the powers of a Local Government under this Act.

Governor-General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

**2.** The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

**3.** For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

**4.** Rules made in pursuance of this Act may provide for the following matters :—

First.—The preservation of all growing trees, shrubs, and plants within Government Forests or of certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephant's tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohi-

biting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed, to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

**5.** In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

**6.** Such Rules when confirmed by the Governor-General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules

**7.** All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

**8.** Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Procedure in case of arrest.

**9.** Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

**10.** Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

**11.** When any timber or other property shall be seized as liable to confiscation under this Act any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

**12.** Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

**13.** All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

**14.** When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

**15.** When any confiscation or penalty shall be adjudged under this Act, the local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

**16.** No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

**17.** No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Period within which charges to be brought.

**18.** This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Extent of Act.

**19.** This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests' Act, 1865."

Commencement of Act. Short Title.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 24th February 1865, and is hereby promulgated for general information :—

ACT No. VIII OF 1865.

*An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original Civil jurisdiction.*

Preamble.

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows :—

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

**1.** All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil jurisdiction, and the detention and imprisonment of all persons so arrested shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

No suit to lie against the Sheriff for any such illegal arrest, &c.

**2.** No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention or imprisonment, as referred to in the preceding Section, and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the Code of Civil Procedure or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

Extension of the Act to the High Courts of Madras and Bombay.

**3.** The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the first day of March 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th March 1865, and is hereby promulgated for general information :—

ACT No. IX OF 1865.

*An Act to amend Act No. XVI of 1864 (to provide for the Registration of Assurances.)*

Preamble.

Whereas it is expedient to amend Act No. XVI of 1864 (*to provide for the Registration of Assurances*); It is enacted as follows :—

Addition to tenth Section of Act XVI of 1864.

**1.** The second sentence of the tenth Section of Act No. XVI of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to thirteenth Section of said Act.

**2.** The thirteenth Section of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Act XVI of 1864, Section 25 repealed.

**3.** The twenty-fifth Section of Act No. XVI of 1864 is hereby repealed.

Registration of instruments affecting immoveable property situate in more than one District.

**4.** Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation stating the date on which it was registered and its number in his Register Book to the District Registrar of every District in which any other part of such property is situate, as well

as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Recognition of powers of attorney executed by persons absent from India without exact observance of provisions of Section 28 of Act XVI of 1864.

**5.** Every power of attorney not duly executed or attested in compliance with the terms of the twenty-eighth Section of Act XVI of 1864 shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI of 1864, Sec. 40, repealed.

**6.** The fortieth Section of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

**7.** An abstract of every original instrument affecting immoveable property registered in the Office of any Deputy Registrar shall, with an endorsement shewing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own Office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in the fifty-sixth Section of the said Act XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI of 1864 during his absence on duty.

**8.** During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the local Government such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

**9.** This Act shall be read and taken as part of the said Act No. XVI of 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept., (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th February 1865 and was referred to a Select Committee, with instructions to make their report in five weeks:—

No. 7 OF 1865.

*A Bill to define and amend the Law relating to Intestate Succession among the Parsees.*

Preamble.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees: It is enacted as follows:—

Division of property among widow and children of Intestate.

**1.** Where the Intestate has left a widow; if he has also left any children, the property shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

**2.** Where the Intestate has left a widower, if she has also left any children, the property shall be divided among the widower and children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

**3.** If the Intestate has left children, but no widow, the property shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

**4.** When a female Intestate has left children, but no widower, the property shall be divided amongst the children in equal shares.

Division of pre-deceased child's share of Intestate's property among the widow or widower and issue of such child.

**5.** If any child of the Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death, but so that the issue of a deceased child or grandchild shall take only the share which such child or grandchild would have taken if living. Provided that the issue of a grandchild living at the Intestate's death shall not, nor shall such widow or widower, if he or she shall have re-married during the Intestate's life time, be entitled to take under the provisions of this Section.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

**6.** If the Intestate die leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property, and the Intestate's widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves neither widow or widower nor lineal descendants.

**7.** If the Intestate die leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of his or her property. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

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THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great-grandfather and great-grandmother.

(5.) Great-Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

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THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not remarried at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grand-father's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to relieve the Parsees from the operation of the English Law, which prescribes the share which females shall take in succession to intestate property. It will provide what shall be the proportion of the shares of females in such inheritances among Parsees, and also, in the event of there being no lineal descendants of a person deceased, the order in which his relatives shall succeed to his property.

The Bill has, in substance, been prepared by the Parsees themselves.

CALCUTTA, *The 20th February* 1865. } H. L. ANDERSON.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Department, (Legislative.)*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February 1865, and was referred to a Select Committee, with instructions to make their report thereon in two weeks :—

No. 26 OF 1864.

*A Bill to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.*

Preamble.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of Officers appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta ; it is enacted as follows :—

**1.** In this Act :—

"High Court." "High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Justice of the Peace." "Justice of the Peace" includes any person duly appointed under the Statute 33 Geo. III, cap. 52, Section 151, to act as a Justice of the Peace within the Provinces of Bengal, Behar, and Orissa, and also any person duly appointed under the Statute 2 and 3 William IV., cap. 117, Section 1, to act as a Justice of the Peace within the town of Calcutta.

"Magistrate." "Magistrate" denotes a Magistrate of Police appointed under Act XIII of 1856.

"Superintendent of the Presidency Jail." "Superintendent of the Presidency Jail" denotes any Officer appointed under this Act to receive and keep prisoners.

Enactments repealed.

**2.** Sections 47, 48, 49, 50, 51 and 52 of Act XVIII of 1862 (*to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction*), are hereby repealed.

After commencement of Act no one to be committed to Sheriff.

And High Court not to issue writs to Sheriff.

**3.** After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison ; and the Judges, of the High Court in the exercise of their original Criminal jurisdiction shall not award and issue writs to the Sheriff of Calcutta commanding him to arrest and seize the bodies of offenders, and bring them to such place and them to keep until they shall be delivered by due course of law.

Government of Bengal may appoint Superintendent of Presidency Jail.

**4.** It shall be lawful for the Government of Bengal to appoint an Officer who shall, under the name of Superintendent of the Presidency Jail, have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

**5.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment, simple or rigorous, or to death, such person shall be delivered to the Superintendent of the Presidency Jail together with the warrant of the said Court, and such warrant shall be executed by such Officer, and returned by him to the High Court when executed.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

**6.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, such person shall be delivered for intermediate custody to the Superintendent of the Presidency Jail ; and from such delivery the imprisonment of such person shall have effect in accordance with the provisions of Act XXXV of 1860 *(relating to the transportation of convicts)*.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

**7.** Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment with or without hard labour, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, such person shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of the Court.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

**8.** The Superintendent of the Presidency Jail shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

**9.** Persons committed by a Justice of the Peace for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the Superintendent of the Presidency Jail, together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

**10.** Every person arrested in pursuance of a warrant of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay)*, shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the Superintendent, of

the Presidency Jail; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Superintendent to detain such persons according to exigency of warrant.

**11** The Superintendent of the Presidency Jail shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

**12.** From and after the passing of this Act, all persons confined in the House of Correction, or the Great Jail of Calcutta, whether under the sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the Superintendent of the Presidency Jail according to the terms of the warrants under which they have been respectively committed to custody.

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

**13.** Any warrant of commitment under Regulation III, 1818, of the Bengal Code, may be directed to the Superintendent of the Presidency Jail in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 *(for the better custody of State Prisoners)* and Act III of 1858 *(to amend the Law relating to the arrest and detention of State Prisoners)*.

Provisions of Statute 11 Vic. cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

**14.** The provisions contained in the Statute 11 Vic., cap. 21 *(An Act to consolidate and amend the laws relating to Insolvent Debtors in India)*, relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the Superintendent of the Presidency Jail, or liable to be delivered to or entitled to be discharged from his custody.

Commencement of Act.

**15.** This Act shall come into operation on the day of 1865.

Act may be extended to Madras and Bombay.

**16.** The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

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STATEMENT OF OBJECTS AND REASONS.

The primary object of the present Bill is to remove the Great Jail of Calcutta from the control of the Sheriff, and to transfer it to that of the Government of Bengal.

The Sheriff of Calcutta, who has at present the exclusive control of the whole Jail, except the House of Correction, is not responsible to Government for the proper discharge of his duties. Much inconvenience has hence resulted. The Commissioner of Police, who manages the House of Correction, does not reside within the limits of the Jail, and cannot therefore give it the requisite personal attention. It is moreover desireable to provide that the Jail should be inspected more scientifically and regularly than can be done by the Visiting Justices, on whom that duty now devolves. The present Bill proposes to supply these defects by relieving the Sheriff and the Commissioner of Police from all concern with the Jail, and by placing the Officer in charge of it, as in the case of Jails in the Mofussil, under the authority of the Inspector-General and through him of the Government of Bengal.

Power is given to the Governors in Council of Madras and Bombay respectively, to deal in like manner with the Jails of Madras and Bombay.

CECIL BEADON.

*The 4th February* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Report of the Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1865 :—

REPORT.

We the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal was referred, have the honour to report that we have considered the Bill.

In consequence of the communication referred to on the introduction of the Bill, we have extended its operation to the Lower Provinces of Bengal. We have also provided for the extension of the Bill to the Territories subject to any Local Government other than the Governments of Bengal and the North-Western Provinces. The Bill may thus become applicable to the whole of British India, and we have therefore thought it desirable to make its provisions more comprehensive and definite than was deemed necessary when, as originally intended, it applied only to the North-Western Provinces.

For the words "Advocates" and "Attorneys" we have substituted "Pleaders" and "Mookhtars," as being more familiar terms and less likely to lead to confusion. We have provided that the High Court (which is defined to mean the highest Civil Court of Appeal in any place in which the Act shall operate), shall make rules not only for the qualification and removal of persons as Pleaders

and Mookhtars, but also for their examination; and we propose that the Local Government shall appoint the examiners. These rules are to be submitted to the Local Government for approval. We have further provided for the enrolment of Pleaders and Mookhtars on the Books of the High Court, and for the issue and renewal of annual certificates, stamped with a stamp varying in amount with the Courts in which the holders shall practise. In this, as in other respects, we have, to some extent, followed the provisions, though not the words, of the English Statute 6 and 7 Vic., cap. 73.

Uncertificated persons (other than Advocates and Attorneys-at-law enrolled in the High Court) practising as Pleaders or Mookhtars are to be liable to fine and imprisonment, and to be incapable of recovering fees.

The High Court is empowered to suspend or dismiss all Pleaders or Mookhtars on its Roll who shall be convicted of a criminal offence. It may also suspend or dismiss any Pleader or Mookhtar guilty of unprofessional conduct; and we have provided a procedure when a charge of such conduct is brought in a subordinate Court. On suspension or dismissal, the Pleader or Mookhtar will have to surrender his certificate.

We have struck out Sections 12 to 15, and have in lieu thereof given power to the High Court to prepare tables of fees chargeable to a party on account of the fees of his adversary's Pleader.

The provisions as to Mookhtars practising in the Revenue Courts (whom we propose to call Revenue Agents) have been made to correspond closely with those applicable to Pleaders and Mookhtars practising in the Civil Courts.

We have fixed the 1st January 1866 for the coming into operation of the Act.

We propose that the Bill as amended, together with this Report, be published for three weeks in the *Gazette of India*.

H. B. HARINGTON.
CECIL BEADON.
H. S. MAINE.
W. MUIR.
R. N. CUST.

*The 7th March* 1865.

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## AMENDED BILLS.

### No. 15 of 1864.

*A Bill to amend the law relating to Pleaders and Mookhtars.*

Preamble.

WHEREAS it is expedient to amend the law relating to Pleaders, Mookhtars, and Revenue Agents; It it enacted as follows:—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The Pleaders and Mookhtars' Act, 1865."

Interpretation of terms.

**2.** In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District." "District Court."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation Provinces, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"Local Government." "High Court." "Board of Revenue."

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief revenue authority therein.

Laws repealed.

**3.** So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

*Of Pleaders and Mookhtars.*

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

**4.** The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also, from time to time, vary and add to such rules.

No person to practise as a Pleader or as a Mookhtar unless previously qualified or admitted and enrolled under this Act.

**5.** No person shall appear, plead, or act as a Pleader, or appear or act as a Mookhtar in any Court in the Territories to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the

case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Local Government to appoint Examiners.

**6.** To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

**7.** The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar, pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

**8.** The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate when renewed, as provided in the ninth Section, may be issued and signed by the Officer so appointed, or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

**9.** Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

**10.** The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—Rs. fifty:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. twenty-five:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. fifteen:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*a.*) In the High Court and any subordinate Court—Rs. twenty-five:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. sixteen:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. eight:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. four.

Pleaders may practise in Criminal Courts and Revenue Offices.

Mookhtars may plead in Criminal Courts.

**11.** Pleaders duly admitted and enrolled may appear, plead, and act in any Criminal Court, or before any Board of Revenue, or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled may appear and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

**12.** Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Any such Pleader or Mookhtar shall also be entitled, with the permission of the presiding Judge or Officer, on production of his certificate and subject to its conditions, to practise as a Pleader or Mookhtar in all other Courts or Revenue Offices within the limits of the general jurisdiction of the High Court in which he is enrolled.

Uncertificated persons practising as Pleader or Mookhtars, to be liable to fine or imprisonment and to be incapable of recovering fees.

**13.** Any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office in the Territories to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

**14.** The High Court may suspend or dismiss any Pleader or Mookhtar enrolled in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

**15.** The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

**16.** If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least twenty days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report when made by a Magistrate subordinate to the Magistrate of the District shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

Suspension pending investigation.

**17.** The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Sec. 16.

**18.** When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension, or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court to which this Act extends, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Dismissed Pleader or Mookhtar to surrender his certificate.

*Of Agents practising in the Revenue Offices.*

**19.** No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtaind a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

**20.** The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Names of Revenue Agents to be enrolled.

**21.** Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Form of Certificate.

**22.** The stamp on such certificate, whether original or renewed, shall be of the value of five Rupees.

Value of stamp.

**23.** The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Revenue Board to ascertain qualifications of Revenue Agents.

**24.** To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid and make regulations for conducting the examinations.

Local Government to appoint examiners.

Enrolment of Revenue Agent in Office in which he shall usually practise.

**25.** Every person who shall have been admitted to practise as a Revenue Agent under this Act, may apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, with the permission of the Officer at the head of the Office, on production of the certificate held by him, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory of the Board of Revenue in which he is enrolled.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

**26.** The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office who shall be convicted of any criminal offence.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

**27.** The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

**28.** If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his professional duty, the Board shall report the same to the High Court, and the High Court, after making such enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

**29.** If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least twenty days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court, in which he is enrolled, which Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the person charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Power to Board to call for record.

**30.** The Board of Revenue in any case in which a Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

**31.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any further inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.

**32.** The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

Dismissed Revenue Agent to surrender his certificate.

**33.** When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office suspending or dismissing him. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment to imprisonment in the Civil Jail for a term not exceeding three calendar months.

Penalty on unqualified person practising as Agent.

**34.** Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

**35.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provision of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have

received the general or the special sanction, as the case may be, in that behalf of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction may be revoked or suspended.

**36.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

*Of the Remuneration of Pleaders and Revenue Agents.*

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

**37.** The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts of Civil Judicature, by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

Section 37 not to apply to Agents appointed under Section 35.

**38.** The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents as to remuneration.

**39.** Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office to which this Act extends, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suits.

*Miscellaneous.*

Suitors may appear, &c., for co-suitors.

**40.** Any suitor may appear, plead, and act in any suit, appeal on other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

Rules to be submitted for approval of Local Government.

**41.** The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be submitted to the Local Government for approval, and, when such approval shall have been obtained, they shall be published in three consecutive numbers of the Official Gazette.

Advocates enrolled in a High Court may plead in any Court other than a High Court in which they are not enrolled.

**42.** Every person now or hereafter enrolled as an Advocate on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, subject nevertheless to the rules in force relating to the language in which the Court is to be addressed by Pleaders.

Attorney of a High Court may plead in any Court not a High Court.

**43.** Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to plead in any Court of British India other than a High Court, subject nevertheless to the rules referred to in the last preceding Section.

Sections 8 to 19 to apply to Vakeels of the High Court.

**44.** On and from the first day of January 1866, the provisions contained in Sections eight to nineteen both inclusive shall, *mutatis mutandis*, apply to all persons then and thereafter enrolled as Vakeels on the Roll of any High Court under the Letters Patent constituting such Court.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

**45.** Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court other than the High Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the District Judge, who shall forward the application to the High Court, and such Court shall cause the applicant to be enrolled under the provisions of this Act, and shall authorize the said Judge to grant a certificate to the applicant as provided in the eighth, ninth, and tenth Sections.

Fines subject to revision.

**46.** Every order for imposing a fine, which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue, if the order shall have been passed by an Officer subordinate to such Board.

Commencement and extent of Act.

**47.** This Act shall take effect in the territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to any part of the territories subject to such Government. Every order issued under this Section shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

**48.** From the date on which this Act shall take effect in the territories mentioned or referred to in the last preceding Section, so much of the Regulations, Acts, or Rules for the time being in force in such Territories as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in the Territories in which it shall so take effect.

## FIRST SCHEDULE.

*Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the territories to which this Act extends.*

| Number and date of Regulations. | What Code. | Title. | Extent of Repeal. |
|---|---|---|---|
| Regulation XXVII, 1814. | Bengal Code. | For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature. | So much as has not already been repealed. |
| Regulation VII, 1822. | Bengal Code. | For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land. | Section xxv. |
| Regulation IX, 1825. | Bengal Code. | For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations. | So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825. |

| Number and date of Acts. | Title. | Extent of Repeal. |
|---|---|---|
| Act I of 1846. | For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company. | The whole. |
| Act XVIII of 1852. | To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal. | The whole. |
| Act XX of 1853. | To amend the law relating to Pleaders in the Courts of the East India Company. | The whole. |
| Act X of 1859. | To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal. | So much of Section lxxi. as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix. |

SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

Stamp

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [*or* Mookhtar], whose place [*or* places] of business is [*or* are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*] and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, *or* the Moonsiffs' Courts *as the case may be*] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186

C. D.

Registrar of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

Stamp

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

## HOME DEPARTMENT.

No. 2176.

*Fort William, the 6th March* 1865.

NOTIFICATIONS.

Captain W. H. Edgcome, R. E., is appointed to officiate as Superintendent of the Pegu Topographical Survey.

No. 2211.

The Governor General in Council is pleased to re-attach to the Bengal Division of the Presidency of Fort William, Mr. J. M. Lowis, of the Civil Service, who returned from furlough on the 2nd instant.

No. 2212.

*The 8th March* 1865.

Mr. James Duff Ward, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years, from the date of embarkation.

No. 2213.

Under Section 12 of Act II of 1857, the Governor General in Council is pleased to authorize the affiliation of the following Institutions to the Calcutta University from the 1st January 1865 :—

Victoria College, Agra, in Arts.
The Hooghly College, in Law.
The Kishnaghur College, in Law.

No. 2214.

His Excellency the Governor General in Council is pleased, under Section 26, 24 and 25 Victoria, Cap. 67, to grant Major General the Hon'ble Sir Robert Napier, K. C. B., an ordinary Member of the Council of the Governor General of India, leave of absence on medical certificate for a period of four months.

No. 2215.

*The 10th March* 1865.

The Right Hon'ble the Secretary of State having appointed Mr. George Noble Taylor, of the Madras Civil Service, to be a Provisional Member of the Council of the Governor General of India, and a vacancy having occurred in the said Council by the departure, on leave, of Major General the Hon'ble Sir Robert Napier, K. C. B., to Europe, Mr. Taylor has accordingly this day taken the oaths and his seat as an ordinary Member of the Council of the Governor General of India, under the usual salute from the ramparts of Fort William.

No. 2216.

The Governor General in Council is pleased to re-attach to the North-Western Provinces, the Punjab, and Oudh, Mr. W. B. Jones, of the Civil Service, who returned from furlough on the 2nd instant.

No. 2217.

Mr. Wilton Oldham, of the Civil Service, has reported his departure from India per Steam Ship *Cashmere*, which vessel was left by the Pilot at sea on the 4th instant.

No. 2218.

Mr. Charles Currie, of the Civil Service, has reported his departure from India by the Steam Ship *Nemesis*, which vessel was left by the Pilot at sea on the 25th ultimo.

No. 2219.

The Revd. T. A. C. Firminger, of the Bengal Ecclesiastical Establishment, has been granted by the Right Hon'ble the Secretary of State an extension of leave on medical certificate for six months.

No. 2220.

Major T. H. Chamberlain, City Magistrate, Lucknow, has obtained 24 days' leave from the 11th instant, or from such date, as he may avail himself of it, preparatory to applying for sick leave to Europe.

No. 2222.

The under-mentioned Officer in Oudh is invested with the powers of a Magistrate described in Section 22 of Act XXV of 1861 :—

Pundit Kalee Sahai, Extra Assistant Commissioner.

No. 2224.

The Governor General in Council is pleased to invest the under-mentioned Tehseeldar, in the Central Provinces, with the powers of a subordinate Magistrate of the IInd Class, described in Chapter II, Section 22 of Act XXV of 1861.

Shunkur Lall, Tehseeldar of Kuttungee, in the Seonee District.

No. 2226.

Dr. Æneas McLeod Ross, Assistant Surgeon, Madras Establishment, is appointed to the medical charge of Chanda, in the Central Provinces.

No. 2231.

Assistant Surgeon J. Law, of the Madras Me ical Service, is appointed Civil Assistant Surgeon of Saugor.

No. 2233.

The services of First Class Native Doctor, Shaik Ruheem Buksh, attached to the Charitable Dispensary at Sumbulpore, are placed at the disposal of the Military Department for other duty.

Native Doctor Noor Mahomed, attached to the Jail Hospital at Sumbulpore, is transferred to the Charitable Dispensary at that station.

Third Class Native Doctor Buldeo, at present doing duty with the 31st Regiment Native Infantry, is appointed to the Jail Hospital at Sumbulpore.

No. 2235.

W. H. Clarke, Esq., L. L. D., Recorder of Rangoon and of Moulmein, embarked on board the Steamer *India*, en route to England, on the 15th February 1865, on the leave of absence granted to him in Notification No. 300, dated 11th January 1865.

No. 2237.

Major E. M. Rayn, Deputy Commissioner, 3rd Grade, assumed charge of the Rangoon Town Magistracy from Mr. G. Hough, on the afternoon of the 8th February 1865.

No. 2239.

Captain E. B. Sladen, Agent to the Chief Commissioner, British Burmah, at the Court of Mundalay, is appointed a Marriage Registrar under Act V of 1852, vice Dr. Williams.

No. 2240.

Captain A. R. McMahon received charge of the Magistrate's Office at Akyab on the afternoon of the 19th January 1875, and again on the afternoon of the 28th January delivered over charge of the same to Major E. J. Spilsbury.

No. 2241.

Mr. W. R. Brooke, Assistant Superintendent of Telegraphs, doing duty in the Bombay Circle, is appointed to officiate in charge of the Bengal Circle.

No. 2243.

The Governor General in Council is pleased to invest the under-mentioned Junior Civil Servants, transferred from the North-Western Provinces for service in Oudh, with the powers of a Subordinate Magistrate of the 2nd Class, described in Section 22 of Act XXV of 1861 :—

Mr. C. W. McMinn, Officiating 3rd Class Assistant Commissioner, Lucknow.

Mr. J. C. Williams, Officiating 3rd Class Assistant Commissioner, Roy Bareilly.

Mr J. Woodburn, Officiating 3rd Class Assistant Commissioner, Seetapore.

Mr. J. T. Crawford, Officiating 3rd Class Assistant Commissioner, Fyzabad.

Mr. C. Steinbelt, Officiating 3rd Class Assistant Commissioner, Durriabad.

No. 2245.

Captain W. N. Lees, L. L. D., resumed charge from Captain E. St. George of the office of Secretary to the Board of Examiners on the 8th instant.

No. 2246.

*Erratum.*

In Notification No. 825 of the 25th January 1865, for "*Moung Pai Hlan*" read "*Moung Pai Hlau.*"

No. 2253.

Mr. W. J. R. Carnac, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year, from the date of embarkation.

No. 2254.

Mr. F. Wright, Assistant Superintendent of Police, Hyderabad Assigned Districts, to officiate as District Superintendent of Police from the 16th of December 1864, vice Captain H. C. Menzies.

No. 2255.

Lieutenant Colonel J. T. Walker, R. E., Superintendent of the Great Trigonometrical Survey of India, resumed charge of his appointment on the morning of the 30th January 1865.

Lieutenant Colonel D. G. Robinson, R. E., Officiating Superintendent of the Great Trigonometrical Survey of India, was permitted to retain charge of the current duties of the Office in Calcutta from the 30th January till the 28th February.

E. C. BAYLEY,

*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

JUDICIAL.

No. 80.

*Fort William, the 8th March* 1865.

The Governor General in Council is pleased to cancel so much of G. O. No. 352, dated 22nd August 1862 as refers to the extension of Act XIII of 1859 to Nimar.

No. 82.

The Governor General in Council is pleased to invest the under-mentioned Officer with the powers described in Act IX of 1860 :—

Captain G. Warner, Deputy Commissioner of Nimar, in the Nimar District.

REVENUE.

No. 112.

Major H. F. Waddington, Deputy Commissioner and Settlement Officer of Mundla, in the Central Provinces, to act as Settlement Officer of Mundla only, making over charge of the Deputy Commissioner's Office to Captain J. J. Fulton, as a temporary arrangement.

Captain J. J. Fulton, Assistant Commissioner of Mundla, to officiate as Deputy Commissioner of Mundla, as a temporary arrangement.

POLITICAL.

No. 196.

*The 6th March* 1865.

His Excellency the Governor General in Council is pleased to permit Captain W. Bannerman to resign the appointment of Commissioner for laying down the boundary between the Central India Agency and the Rewah Kanta States, conferred upon him by Notification No. 73, dated 24th January 1865.

Captain Bannerman's services are replaced at the disposal of the Military Department.

No. 207.

*The 8th March* 1865.

Dr. J. P. Stratton, Political Assistant of Bundlecund, is appointed to be Political Agent of Bundlecund, with effect from the 1st June 1864.

GENERAL.

No. 515.

*The 6th March* 1865.

The following promotions and appointments in British Burmah are sanctioned by the Governor General in Council :—

| Name. | Promoted or appointed to be | Date of appointment or promotion. |
|---|---|---|
| Moung Shwe Yai, new appointment | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 20 per mensem. | From 10th September 1864, vice Moung Shwe Min, dismissed. |
| Moung Tan, ditto ... | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 60 a month. | From 10th October 1864, vice Moung Pay Loo, dismissed. |
| Moung Htoon Oung, ditto ... | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 50 per mensem. | From 15th September 1864, vice Moung Shwe Bau, pensioned. |
| Moung Doot, Extra Asst. Commr., 3rd grade (Myooke), on Rs. 60 per mensem. | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 100 per mensem. | From 1st May 1864, vice Moung Shwe Bweng, Extra Asst. Commr., 3rd grade (Myooke), reduced to Rs. 60 per mensem. |
| Moung Shwe Bweng, Extra Asst. Commr., 3rd grade (Myooke), on Rs. 100 per mensem. | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 60 per mensem. | From 1st May 1864, reduced in room of Moung Doot, above noticed. |
| Moung Kyait, Burmese writer, on Rs. 25 a month. | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 60 per mensem. | From 25th July 1864, vice Moung Hlay, dismissed. |
| Moung Wetgalay, Extra Asst. Commr., 3rd grade (Myooke), on Rs. 55 per mensem. | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 50 per mensem. | From 14th February 1864, reduced, vice Moung Tha Hai, on Rs. 50 dismissed. |
| Moung Tsee, new appointment ... | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 55 per mensem. | From 14th February 1864, vice Moung Wet Galay, reduced. |

| Name. | Promoted or appointed to be. | Date of appointment or promotion. |
|---|---|---|
| Moung Shwe Go, Extra Asst. Commr., 3rd grade (Myooke), on Rs. 50 a month. | Extra Asst. Commr., 3rd grade (Myooke), on Rs. 74 per mensem. | From 27th December 1864, vice Moung Me Doe, pensioned, and whose appointment became absorbed. |
| Moung Phai, new appointment | To officiate as Extra Asst. Commr., 3rd grade (Myooke), on Rs. 100 per mensem. | From 24th August 1864, owing to suspension of Moung Tseing, Extra Asst. Commr., 3rd grade (Myooke). |
| Moung Kra Oung, ditto | To officiate as Extra Asst. Commr., 3rd grade (Myooke), on Rs. 100 per mensem. | From 1st June 1864, owing to absence on furlough of Mr. Motley, Extra Asst. Commr., 1st grade. |
| Moung Shwe Kyee, Extra Asst. Commr., 2nd grade (Tseekay), on Rs. 200 a month. | Extra Asst. Commr., 2nd grade (Tseekay), on Rs. 250 a month. | From 1st October 1864, vice Moung Shwe Doh, Extra Asst. Commr., 2nd grade (Tseekay), pensioned. |
| Moung Shwe Nyeng Akhon Woon (or Head Revenue Burmese Clerk.) | Extra Asst. Commr., 2nd grade, (Tseekay), on Rs. 200 a month. | From 1st October 1864, vice Moung Shwe Kyee. |
| Moung Shwe Bo, Extra Asst. Commr., 3rd grade (Myooke), on Rs. 50 a month. | Extra Asst. Commr., 2nd grade (Tseekay), on Rs. 200 a month. | From 1st November 1864, vice Moung Louk, Extra Asst. Commr., 2nd grade (Tseekay), pensioned. |

No. 517.

Mr. St. George Tucker, Commissioner of the Khyrabad Division, in Oudh, has obtained privilege leave of absence for two months, from the 24th April next, or from the subsequent date on which he may avail himself of it.

No. 519.

Lieutenant Colonel R. C. Lawrence, C. B, received charge of the Nipal Residency from Captain C. C. Taylor, on the afternoon of the 18th February 1865.

No. 536.

*The 8th March* 1865.

Lieutenant K. J. L. Mackenzie, Assistant Commissioner, East Berar, Hyderabad Assigned Districts, has obtained permission to remain at Bangalore until the 20th February 1865.

No. 538.

Mr. A. Shakespear, Agent to the Governor General at Benares, resumed charge of his Office from Mr. G. P. Money on the 28th February 1865.

No. 540.

Mr. C. Currie, Commissioner of the Baiswarra Division, in Oudh, sailed for England on the Steamer "Nemesis," which vessel was left by the Pilot at sea on the 25th February 1865.

No. 541.

Captain R. C. Stewart, 8th Madras Light Cavalry, is appointed to officiate as Military Assistant to the Commissioner of Mysore, during the absence on leave of Major E. B. Ramsay.

Major Ramsay made over charge of his office to Captain Stewart on the 4th February 1865.

No. 542.

Major B. Reid received charge of the office of Deputy Commissioner of Darjeeling from Mr. H. Beverley on the afternoon of the 18th February 1865.

No. 543.

Mr. J. T. Crawford, C. S., is appointed to officiate as an Assistant Commissioner in Oudh, during the absence on leave of Lieutenant F. Currie, or until further orders.

A. Colvin,

*Offg. Under Secy. to Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 1202.

*Fort William, the 9th March* 1865.

Notifications.

The Governor General in Council is pleased, under Section 1 of Act XXVIII of 1864, to extend the under-mentioned Sections of Act XXI of 1856 and Act XXIII of 1860 to certain portions of the Province of the Punjab, viz. :—

To those portions of the Province in which an acreage on Poppy Cultivation has been or may be introduced: all the provisions of Acts XXI of 1856 and XXIII of 1860, with the exception of—

Sections 34, 53, and 75 of Act XXI of 1856, so far as they relate to the supply of Opium from Government stores,

Sections 28, 35, 48, 51, and 52 of Act XXI of 1856, so far as they restrict the sale of Opium to Licensed Vendors only, and prohibit the possession of Opium by other parties,

And of Section 41 of the same Act, permitting a Licensed Vendor to surrender his license on giving 15 days' notice.

To the rest of the Province all the provisions of Acts XXI of 1856 and XXIII of 1860, with the exception of—

Sections 34, 53, 75 of Act XXI of 1856, so far as they relate to the sale of Opium from Government stores,

And of Section 41 as aforesaid.

No. 1304.

Mr. J. L. Lushington received charge of the Office of Deputy Auditor and Accountant General, Bombay, from Mr. S. D. Birch, on the 28th February 1865.

No. 1347.

*The 10th March* 1865.

*Statement of the amount of Government Currency Notes in circulation, of the amount of Coin and Bullion Reserve, and Government Securities held by the Department of Issue of Paper Currency.*

| Date of Returns. | Circles of Issue. | Notes in Circulation. | Silver Coin Reserve. | Silver Bullion Reserve. | Government Securities held in Calcutta. | Gold Coin Reserve. |
|---|---|---|---|---|---|---|
| 1865. | | | | | | |
| March 4th | Calcutta Circle .. | 2,90,94,920 | 1,01,28,355 | 46,00,000 | 1,38,63,145 | 5,03,420 |
| " " | Allahabad Branch do. | 17,73,650 | 10,72,897 | ..... | 7,00,063 | 690 |
| " " | Lahore do. do. | 12,96,090 | 7,80,065 | ..... | 5,00,045 | 15,980 |
| " " | Nagpore do. do. | 9,28,410 | 7,78,408 | ..... | 1,49,927 | 80 |
| Feb. 25th | Madras Circle ... | 54,00,000 | 18,96,137 | ..... | 35,03,863 | ... |
| " " | Calicut Branch do. | 1,18,640 | 1,18,640 | ..... | ..... | ... |
| " " | Trichinopoly do. do. | 2,36,180 | 2,36,180 | ..... | ..... | ... |
| " " | Vizagapatam do. do. | 1,13,450 | 1,13,450 | ..... | ..... | ... |
| March 4th | Bombay Circle ... | 3,46,00,000 | 1,50,71,991 | 25,00,000 | 1,70,28,009 | ... |
| | | 7,35,61,340 | 3,01,96,118 | 71,00,000 | 3,57,45,052 | 5,20,170 |
| *Deduct*— Notes of other Circles cashed at Head Office ... ... | | 40,540 | 40,540 | ..... | ..... | ... |
| | Total ... .. | 7,35,20,800 | 3,01,55,578 | 71,00,000 | 3,57,45,052 | 5,20,170 |

DEPARTMENT OF ISSUE OF PAPER CURRENCY,
CALCUTTA,
*Dated 6th March* 1865.

(Signed) H. HYDE,
*Head Commissioner, Department of Issue of Paper Currency.*

No. 1348.

The following Statement of the Silver received and coined in the Mints of Calcutta, Madras, and Bombay, in January 1865, is published for general information :—

| | Calcutta. | | | Madras. | | | Bombay. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Bullion or Coin received during the month, valued in Rupees. | | Coined and examined during the month, valued in Rupees. | Bullion or Coin received during the month, valued in Rupees. | | Coined and examined during the month, valued in Rupees. | Bullion or Coin received during the month, valued in Rupees. | | Coined and examined during the month, valued in Rupees. |
| | Govt. | Merchts. | | Govt. | Merchts. | | Govt. | Merchts. | |
| In January 1865... | 20,022 | 10,13,616 | 31,31,502 | 8,653 | 8,50,335 | 6,76,000 | 1,84,313 | 43,87,735 | 15,99,589 |

No. 1349.

The Governor General in Council is pleased to direct the publication of the following Despatch of the Right Hon'ble the Secretary of State for India, No. 12, dated 18th January 1865, and its enclosure, deciding that an Uncovenanted Servant appointed prior to the promulgation of the new Pension Rules on the 8th June 1863, may, if those rules render it necessary for him, in order to obtain a pension, to serve for a longer period than was required by the old rules, be allowed, in the event of ill health rendering it necessary for him to retire from the service, to complete the period of service required by the old Rules, provided that he shall not at any time have availed himself of the benefits conferred by the new Leave Rules :—

FINANCIAL. INDIA OFFICE,

No. 12. *London, 18th January* 1865.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I forward to you a copy of a Despatch to the Government of Madras, of this day's date, No. 1, on the subject of an appeal by an Uncovenanted Servant in that Presidency against the enforcement in his case of the new Uncovenanted Service Pension Rules.

2. You will observe that, in certain cases, where the application of the new Rules would render it necessary for an officer, in order to obtain his pension, to serve for a longer period than was required by the old Rules, Her Majesty's Government authorize the grant of a pension under the old Rules, provided that he has not at any time availed himself of the benefits conferred by the new Leave Regulations.

I have, &c.,
(Signed) C. WOOD.

FINANCIAL. INDIA OFFICE,

No. 1. *London, 18th January* 1865.

*To His Excellency the Hon'ble the Governor in Council, Fort St. George.*

SIR,—I have considered in Council your Public letter dated the 31st of October 1864, No. 38, forwarding a Memorial by Mr. J. G. Ferrand, First Uncovenanted Assistant in the Military Department of the Government Secretariat, praying that the new Uncovenanted Service Pension Rules may not be enforced in his case, but that, when the time arrives for his retirement from the service, he may be allowed the benefit of the former Rules.

2. The general tendency of the new Rules, so far from causing injury to the members of the Uncovenanted Service, is, on the contrary, to improve their position. In regard to the grant of pensions to Uncovenanted Servants in the enjoyment of high salaries, it had become necessary to fix a more definite limit than had previously existed; but, with this exception, the cases will be comparatively few, in which the new Rules will not be found more favourable than the old.

3. Mr. Ferrand points out that the application of the new Rules might render it necessary for him, in order to obtain a pension, to serve for a longer period than was required by the old Rules. In the case of any Uncovenanted Servant so circumstanced, who was appointed prior to the promulgation of the new Rules, and whom you may consider entitled to favourable consideration, I shall not object to your granting a pension after he has completed the period of service required by the old Rules, in the event of his health rendering it necessary for him to retire from your service. It must, however, be understood that an Uncovenanted Servant will not be allowed to take his pension under the old Rules, if he has at any time availed himself of the benefits conferred by the new Leave Regulations.

4. In making this communication, I think it necessary to call your attention to the great inconvenience which must result from your asking the decision of the Home Government upon some point of the Pension Rules, with direct reference to an individual whose retirement from the service has not yet taken place. It is a fundamental principle of those Rules that the full amount of pension is only to be given as the reward of approved service. Until an officer retires from the service, it cannot be known what amount of pension the Government will consider him to deserve, and their determination can hardly be

unfettered, if a decision has been previously passed by the Home Government on his individual case.

I have, &c.,
(Signed) C. WOOD.

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No. 1367.

In continuation of Notification No. 1193, dated the 3rd instant, the following Statement of Cash Balances, as reported up to this date, in the Government Treasuries in India, at the close of the month of January 1865, contrasted with that of the previous years, is published for general information :—

| According to the present limits of the several Governments. | 1863. January. | 1864. January | 1865. January. |
|---|---|---|---|
| | Rs. | Rs. | Rs. |
| Government of India... | 5,89,42,000 | 2,59,01,473 | 1,39,21,037 |
| Bengal ... | 2,10,51,231 | 1,98,36,321 | 1,78,60,016 |
| N. W. Provinces ... | 3,63,37,772 | 3,36,26,596 | 2,80,85,057 |
| Punjab ... | 1,12,80,211 | 1,06,72,861 | 1,37,79,259 |
| Bombay ... | 3,70,65,024 | 2,08,81,572 | 2,11,02,889 |
| Central Provinces ... | 47,97,792 | 34,94,386 | 43,35,897 |
| Deccan ... | 20,65,198 | 30,39,448 | 27,51,925 |
| Madras ... | 2,59,27,924 | 2,87,07,134 | 2,33,25,339 |
| Total ... | 19,74,67,152 | 14,61,59,791 | 12,51,61,419 |

E. H. LUSHINGTON,
*Secy. to the Govt. of India.*

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## MILITARY DEPARTMENT.

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*Fort William, the 6th March* 1865.

*No.* 228 *of* 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent Staff employ, to be Captain from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

Lieutenant G. N. Money ... 4th March 1865.

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*No.* 229 *of* 1865.—The under-mentioned Officer of the Royal Engineers, who has been placed under orders for duty in the Bengal Presidency, reported his arrival on the date specified below :—

*Date of arrival at Fort William.*

Lieutenant M. S. Bell ... 19th February 1865.

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*No.* 230 *of* 1865.—Sub-Conductor James Hand is appointed to officiate as Conductor in the Ordnance Commissariat Department from the 25th ultimo, during the absence, on furlough to Europe, of Conductor T. Wilkins, or until further orders.

*No.* 231 *of* 1865.—The under-mentioned out-Pensioners of the Royal Hospital at Chelsea having been permitted to reside and draw their stipends in India, payment of pensions are to be made and charged accordingly :—

*Rate of pension per diem.*

Gunner Charles French, of the 24th Brigade Royal Artillery. — 9*d.* (nine pence) from the date on which he ceases to receive Regimental pay.

Gunner Thomas Bonehill, of the Royal Horse Artillery ... — 8*d.* (eight pence) from the date on which he ceases to receive Regimental pay.

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*No.* 232 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following promotion in the Medical Department :—

Surgeon Major A. H. Cheke, Civil Surgeon of Benares, to be a Deputy Inspector General of Hospitals, with temporary rank, during the absence on sick leave of Deputy Inspector General of Hospitals R. B. Kinsey, or until further orders.

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*No.* 233 *of* 1865.—The under-mentioned Officer is permitted to Europe on furlough on private affairs :—

Captain John Boyd Saunders, of the late 4th European Light Cavalry, Brigade Major, Allahabad. — For 3 years, under the old Regulations.

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*No.* 234 *of* 1865.—Kote Duffadar Azeem Khan, of the 2nd Regiment Bengal Cavalry, is promoted to the rank of Jemadar from the 6th December 1864, vice Jemadar Meer Moorad Ally, invalided.

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*The 7th March* 1865.

*No.* 235 *of* 1865.—With reference to the Notification from the Foreign Department, No. 507, dated 3rd instant, that part of Government General Order No. 184 of the 20th ultimo, placing the services of Assistant Surgeon G. N. Cheke, in medical charge of the Nepal Residency, at the disposal of His Excellency the Commander-in-Chief, is hereby cancelled.

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*No.* 236 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Assistant Surgeon John Picthall, M. D. L. R. C. P., of the Medical Department ... — For 18 months, under the new Regulations.

*No.* 237 *of* 1865.—His Excellency the Governor General in Council is pleased to notify that the Staff salaries laid down in Government General Order No. 161 A, dated 29th October 1863, are to be held to include the following sums as Horse Allowance, which, under the Financial Resolution No. 8262 of the 2nd July 1861, is exempted from the payment of Income Tax :—

*In the Native Cavalry.*

In the Staff salary of the Commanding Officer ... Rs. 90 for 3 Chargers.

Of each of the other Officers ... ,, 60 for 2 Chargers.

*In the Native Infantry.*

In the Staff salary of each Officer ... Rs. 30 for 1 Charger.

2. Up to the 30th June 1864 the Staff Allowance of each Officer of Cavalry is to be held to have included the sum of Rupees 90 for three Chargers, which till that date each Officer belonging to a Native Cavalry Corps was required to maintain.

*No.* 238 *of* 1865.—With reference to Government General Order No. 22 of the 6th January 1865, it is notified that the Pay and Indian Allowances, extra Batta and Tentage of European Commissioned Officers, not being Officers of the Staff Corps, or holding Staff appointments, shall be considered a consolidated sum, and shall be drawn in one item as *Regimental Pay and Allowances* without specifying the details of the several components.

2. It is to be distinctly understood that this consolidated sum contains the same fixed allowance as heretofore, on account of Tentage, as follows, viz. :—

| | Rs. | As. | P. |
|---|---|---|---|
| Colonel ... | 200 | 0 | 0 |
| Lieutenant Colonel ... | 150 | 0 | 0 |
| Major ... | 120 | 0 | 0 |
| Captain and Pay-master ... | 75 | 0 | 0 |
| Lieutenant and Quarter Master | 50 | 0 | 0 |
| Cornet and Ensign ... | 50 | 0 | 0 |

Horse Allowance will continue to be drawn as a separate item.

This order is applicable to the three Presidencies

*The 8th March* 1865.

*No.* 239 *of* 1865.—In conformity with Government General Order No. 144 of 1852, the following Statement of Deposits made at the Presidency Pay Office, during the month of February 1865, on account of the Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of the Indian Military Forces of Her Majesty, is published for general information ; and it is hereby notified that claims to the Estates in question, which shall not be preferred to the Presidency Pay Master by Executors and Administrators, before the conclusion of twelve months after the date of decease, cannot be attended to in this country, as the money after that period will be remitted to, and made payable by the Secretary of State for India.

*Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers and Soldiers of Her Majesty's Indian Military Service, in the month of February* 1865.

| Date of Deposit. | On whose account. | Rank. | Corps. | General Number. | Date of decease. | Testate or Intestate. | Amount of monies accruing from the adjustment of Estates. | Amount of Donation Batta due to Estates. | Total unclaimed amount deposited. | How disposed of. Amount paid in India. | Amount retained in India. | Amount remitted for payment in England. In Co.'s Rupees. | Equivalent in Sterling. | Rate of Exchange. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Commissioned and Warrant Officers.* | | | | | | Rs. A. P. | | Rs. A. P. | | | | | |
| 6th Feb. 1865 | (*a*) Burke Cuppage ... | Captain ... | Late 3rd Bl. En. Cavy. ... | ... | 8th July 1864 | Intestate | 190 6 5 | .. | 190 6 5 | | | | | |
| 6th „ „ | (*b*) Hotham Taylor Woodcock | Lieutenant ... | Genl. List, Infy, Bl. Army | ... | 17th Nov. 1863 | Ditto | 157 8 0 | .. | 157 8 0 | | | | | |
| 6th „ „ | (*c*) George Welley Eaton ... | Ditto ... | 73rd Native Infy. ... | ... | 12th Oct. 1864 | Ditto | 113 1 6 | ... | 113 1 6 | | | | | |
| 8th „ „ | (*d*) William Dumville Smythe... | Asst. Surgeon ... | En. 11th Royal Artillery | ... | 13th Dec. „ | Not known | 2,414 9 11 | .. | 2,414 9 11 | | | | | |
| 13th „ „ | (*e*) Harry Bowles ... | Lieutenant ... | Invalid Establishment ... | ... | 14th Sept. „ | Intestate | 627 8 6 | ... | 627 8 6 | | | | | |
| 20th „ „ | J. Dawson .. | Captain .. | 1st Native Infy. ... | ... | 2nd Nov. 1858 | Ditto | 100 9 6 | ... | 100 9 6 | | | | | |
| 20th „ „ | Arthur Morgan ... | Asst. Surgeon .. | Medical Charge .. | ... | 10th Nov. 1861 | Ditto | 105 15 9 | ... | 105 15 9 | | | | | |
| 17th „ „ | (*f*) Charles Stewart, M. D. ... | Surgeon ... | 34th Regt. Native Infy .. | ... | 6th Aug. 1864 | Ditto | 49 12 10 | ... | 49 12 10 | | | | | |
| 22nd „ „ | (*g*) Edgar Gresley Stone | Captain ... | 5th ditto ... | .. | 5th Nov. „ | Ditto | 78 0 0 | ... | 78 0 0 | | | | | |
| 27th „ „ | (*h*) John Murphy ... | Ensign ... | Unattached List, doing duty with No. 1 Gn. By. Bl. Artillery. | ... | 10th Oct. „ | Testate | 482 2 2 | ... | 482 2 2 | | | | | |
| | Carried over ... | ..... | ..... | ... | ..... | .. | 4,319 10 7 | ... | 4,319 10 7 | | | | | |

(*a*) Next of kin, father, Major General Burke Cuppage, Governor of Jersey.
(*b*) Next of kin, brother, Captain E. Woodcock (Bombay Staff Corps), District Superintendent of Police, Seetapore, Oudh.
(*c*) Widow, Mrs. Jeanette Eaton.
(*d*) Next of kin, father, William Smythe, Esq., of 17th Upper Loch Gardens, Brighton.
(*e*) Widow, Mrs. Mary Jane Bowles, and five children.
(*f*) Next of kin, mother.
(*g*) Next of kin, father, E. G. Stone. Esq., Chamber's Court, near Tewkesbury, Gloucestershire.
(*h*) Widow, Mrs. Lucy Domingo Murphy, and two children.

*Statement of Deposits made at the Presidency Pay Office on account of Estates of deceased European Commissioned, Non-Commissioned, and Warrant Officers, &c.,*—continued.

| Date of Deposit. | On whose account. | Rank | Corps | General Number | Date of decease | Testate or Intestate. | Amount of monies accruing from the adjustment of Estates | Amount of Donation Batta due to Estates | Total unclaimed amount deposited | How disposed of: Amount paid in India. | Amount retained in India. | Amount remitted for payment in England: In Co's Rupees | Amount remitted for payment in England: Equivalent in Sterling | Rate of Exchange |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Rs A. P. | | Rs. A. P | | | | | |
| | Brought forward ... | .. | ..... | .. | ... | ... | 4,319 10 7 | . | 4,319 10 7 | | | | | |
| | *Non-Commissioned Officers and Soldiers* | | | | | | | | | | | | | |
| 6th Feb. 1865 | (*a*) Thomas Goddard ... | Corporal .. | H M.'s 20th Hussars .. | 481 | 25th Mar 1863 | Unknown | 11 14 8 | .. | 11 14 8 | | | | | |
| 6th „ „ | (*b*) H. Bluff .. | Private ... | Ditto .. | 311 | 17th June „ | Ditto | 14 14 0 | . | 14 14 0 | | | | | |
| 6th „ „ | (*c*) Daniel FitzGerald ... | Ditto ... | Ditto ... | 70 | 3rd Oct 1862 | Intestate | 6 8 0 | | 6 8 0 | | | | | |
| 6th „ „ | (*d*) James Higgins ... | Ditto ... | Ditto .. | 279 | 26th Oct „ | Ditto | 6 8 0 | .. | 6 8 0 | | | | | |
| 6th „ „ | (*e*) Henry Lambert .. | Ditto . | Ditto .. | 115 | 27th Sept „ | Ditto | 5 6 8 | .. | 5 6 8 | | | | | |
| 6th „ „ | (*f*) Thomas Mack ... | Ditto ... | Ditto ... | 123 | 17th July „ | Testate | 3 4 0 | .. | 3 4 0 | | | | | |
| 6th „ „ | (*g*) Henry McArdle .. | Ditto . | Ditto ... | 495 | 24th Feb 1863 | Unknown | 10 13 4 | . | 10 13 4 | | | | | |
| 15th „ „ | (*h*) John McDonnell .. | Sergeant | Local Artillery .. | . | 5th Oct 1864 | Intestate | 29 1 1 | ... | 29 1 1 | | | | | |
| | Total ... | .. | .. | .. | ... | .. | 4,408 0 4 | | 4,408 0 4 | | | | | |

(*a*) Widow, Mary, care of Mrs Stevens, Godalming, Surrey, father, Edward Salisbury St Edmonds.
(*b*) Next of kin, not known
(*c*) Next of kin, brother, James, Marylebone, Middlesex
(*d*) Next of kin, mother, Mary Higgins, Ballymina, Ireland
(*e*) Next of kin, father, William Lambert, Lindridge, Worcestershire
(*f*) Legatee, mother, Mary Doyle, Lucan, Dublin, Ireland.
(*g*) Next of kin, not known
(*h*) Widow, Mrs Sarah McDonnell, and a son, Samuel James McDonnell, 10 years odl. Goruckpore

FORT WILLIAM;
PAY OFFICE,
*The 28th February* 1865.

C. F M. MUNDY, *Lieut Colonel,*
*Presidency Pay Master.*

*No.* 240 *of* 1865.—His Excellency the Governor General in Council is pleased to admit Sepoy Muttra Ram, of the 11th Regiment Native Infantry, to the 3rd Class of the Order of Merit, in consideration of his conspicuous gallantry in action on the 27th January 1865, when the post of Tazagoon, on the Bhootan Frontier, was attacked by the enemy.

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*No.* 241 *of* 1865.—The services of Lieutenant G. C. B. Simmons, of the Royal Engineers, are placed at the disposal of the Public Works Department.

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*No.* 242 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 11 of the 25th January 1865, is published for general information :—

MILITARY. INDIA OFFICE,

No. 11. *London, 25th January* 1865.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—With your letter dated 5th November last, No. 376, you submit a question which has been raised regarding the rate of pension to which Medical Officers, who may be compelled to retire from sickness or accident after a service of six years, are to be held to be entitled with reference to the General Order No. 507 of 20th June 1864, which notified that Medical Officers entitled to half pay pension, under present Regulations, are eligible for the same according to their relative Army rank, as fixed by Royal Warrant.

2. By the Royal Warrant of 13th January 1860, an Assistant Surgeon, after six years' service as such, is to have relative rank as Captain. The same Warrant declares that "such relative rank shall carry with it all precedence and advantages attaching to the rank with which it corresponds."

3. My Despatch dated 16th May last, No. 152, stated that Officers compelled to leave the service on account of ill health, and entitled to half pay pensions under present Regulations, would, in future, be allowed the half pay of their relative rank.

Para. 15.

4. Under these circumstances, I am of opinion that in respect to retirement on half pay, the Assistant Surgeon, after a service of six years, should be treated as an Officer having the Regimental rank of Captain has hitherto been treated; that is, without being required to show any qualifying period of service, he should be permitted to retire on the half pay of Captain, on showing sufficient proof of disqualification for further service.

5. Medical Officers under six years' service having the rank of Lieutenant, will continue, in respect to retirement on account of ill health, subject to the Regulations applicable to Subaltern Officers.

I have, &c.,

(Signed) C. WOOD.

---

*The 9th March* 1865.

*No.* 243 *of* 1865.—The following paragraphs of a Military letter from the Right Hon'ble the Secretary of State for India, No. 16, dated 31st January 1865, are published for general information :—

1. The under-mentioned Officers have been permitted to return to their duty, viz. :—

Colonel R. G. Taylor, C. B.
Major R. M. S. Annesley.
Captain H. R. Osborn.
" J. Leven.
" F. H. Foote.
" H. B. Webster.
Lieutenant R. S. Green.
Surgeon Major A. H. Cheke.
Surgeon E. Taylor.
" A. J. Payne.

2. The under-mentioned Officers have been granted extensions of leave for the periods specified, viz. :—

| | | |
|---|---|---|
| Lieut. Col. J. W. Carter, | 6 | months. |
| " J. H. Maxwell, | 6 | " |
| Major R. T. Leigh, | 6 | " |
| " W. Graydon, | 6 | " |
| Captain J. P. A. Theobald, | 3 | " |
| " F. K. Bacon, | 6 | " |
| " G. H. Gordon, | 6 | " |
| " H. F. Bamford, | 12 | " from 21st July 1864. |
| " H. W. Chapman, | 6 | " |
| Lieut. G. W. Holdsworth, | 6 | " |
| " F. B. Morris, | 6 | " |
| Surgeon Major G. Harper | 6 | " |

3. The under-mentioned Officers have been permitted to retire from the service from the dates specified, viz. :—

Colonel S. A. Abbott, from 27th October 1864.

Surgeon Major John Campbell, M. D., C. B., from the 24th October 1864.

Surgeon Major Edward Campbell, from the 11th July 1864.

---

*No.* 244 *of* 1865.—The following order issued by the Government of Bombay is confirmed :—

| | |
|---|---|
| *No.* 112, *dated 24th February* 1865.—Granting leave of absence to Europe on medical certificate to Captain J. C. Wood, of the Bengal Staff Corps. | For 20 months. |

---

*No.* 245 *of* 1865.—The under-mentioned Officers have reported their return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Major R. M. S. Annesley, of the Bengal Staff Corps. | 3rd March 1865. |
| Major S. B. Cookson, of the Bengal Staff Corps. | |
| Captain R. B. Mackenzie, of the late 12th Regiment Native Infantry. | |
| Lieutenant P. C. Dalmahoy, of the late 60th Regiment Native Infantry, District Superintendent of Police, Oorale District. | |

| | |
|---|---|
| Surgeon Major A. H. Cheke, of the Medical Department, Civil Surgeon, Benares. Surgeon E. Taylor, of the Medical Department. Assistant Surgeon T. Duka, M. D., of the Medical Department, Civil, Monghyr. | 3rd March 1865. |

*The 10th March* 1865.

*No.* 246 *of* 1865.—With reference to G. G. O. No. 79 of the 18th January 1859, the return to duty of Captain J. P. Cambridge, of the late 2nd N. I., announced in G. G. O. No. 518 of the 15th April 1859 is to be held to have had effect from the 8th January 1859, the date of his arrival at Kurrachee.

*No.* 247 *of* 1865.—The services of Lieutenant G. D'A. Jackson, of the General List, Cavalry, Probationary Assistant Engineer, British Burmah, D. P. W., are placed at the disposal of the Government of Bengal.

*No.* 248 *of* 1865.—The under-mentioned Officers of the Royal Engineers, who have been placed under orders for duty in the Bengal Presidency, reported their arrival on the dates specified below:—

| | *Date of arrival at Fort William.* |
|---|---|
| Lieutenant Frederick Firebrace. Lieutenant Thomas Brown Blake, Savi. | 3rd March 1865. |

*No.* 249 *of* 1865.—The under-mentioned Officers are admitted to the Bengal Staff Corps with effect from the dates specified opposite to their respective names, subject to the confirmation of the Right Hon'ble the Secretary of State for India:—

| | |
|---|---|
| Lieut. Pierre Louis Napoleon Cavagnari, of the late 1st European Bengal Fusiliers, Assistant Commissioner, Dera Ishmael Khan. | 10th July 1861. |
| Lieutenant George Constable Gregory, of the late 58th Native Infantry, Adjutant, 3rd Goorkha Regiment. | 6th November 1861. |
| Lieutenant Francis William Grant, of the late 22nd Native Infantry, Assistant Commissioner, Berar. | 12th April 1862. |
| Lieutenant George Bernard Johnston, of the late 54th Regt. N. I., District Supdt. of Police, Maldah. | 22nd April 1862. |
| Lieutenant John Munro Sym, of the late 58th Regt. N. I., Quarter Master and Offg. Adjutant, 5th Goorkha Regt. | 23rd Dec. 1862. |
| Ensign George T. Maitland, of H. M.'s 42nd Foot, Assistant Engineer, Benares Division, D. P. W. | 1st March 1864. |

*No.* 250 *of* 1865.—Under the authority of Her Majesty's Government, His Excellency the Governor General in Council is pleased to notify that an Officer Instructor of Gunnery and two Sergeants as Assistant Instructors who may be certified to have qualified themselves at the School of Gunnery established at Shoeburyness, will be allowed for each Brigade of Royal Artillery serving in India, and that the Officers and Non-Commissioned Officers who may be so appointed will receive the same Staff Allowances as those now drawn by the Instructors and Sergeant Instructors of Musketry in Regiments of British Infantry, the Non-Commissioned Officers being borne on the Staff of the Brigade instead of on the strength of Batteries.

*No.* 251 *of* 1865.—The services of 2nd Captain W. H. Burton, of the Royal Engineers, are placed at the disposal of the Public Works Department.

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 77.

*Fort William, the 4th March* 1865.

NOTIFICATIONS.

Lieutenant F. P. Spragge, R. E., is re-appointed to the Public Works Department as an Assistant Engineer, 2nd grade, and posted to the Punjab.

No. 78.

*The 7th March* 1865.

The services of Private W. A. Walker, of the Sappers and Miners, having been placed at the disposal of the Public Works Department, he is appointed an Accountant of the 4th grade, and posted to Oudh, with effect from the 28th January 1865.

No. 79.

Lieutenant Colonel C. H. Dickens, R. A., Chief Engineer and Secretary to Chief Commissioner, Central Provinces, made over charge of his Office on the forenoon of the 17th ultimo to Mr. A. G. Crommelin, Assistant to Chief Engineer and Assistant Secretary to the Chief Commissioner.

No. 80.

The services of Lieutenant G. D'A. Jackson, Probationary Assistant Engineer, British Burmah, are placed at the disposal of the Government of Bengal.

No. 81.

*The 8th March* 1865.

Referring to Act XXII of 1863, which provides for taking land for works of public utility to be constructed by private persons or Companies and for regulating the construction and use of works on land so taken, it is notified for general information that the Right Hon'ble the Governor General in Council has been pleased to vest the Resident at Hyderabad with the same powers as are vested in

local Governments under Sections VI., VII., VIII., and XXII. of the Act.

All other powers under the Act, in Hyderabad, will be exercised by His Excellency the Governor General in Council.

No. 82.

*The 10th March* 1865.

Lieutenant G. C. B. Simmons, R. E., is appointed to the Public Works Department as an Assistant Engineer of the 2nd grade, and is posted to British Burmah.

No. 83.

Lieutenant G. H. L. Pole, R. E., appointed to the Public Works Department as an Assistant Engineer, 2nd grade, in Notification No. 56 of the 21st February 1865, is posted to the Nuggur Division, Mysore.

No. 84.

Notification No. 207 of 1864, transferring Deputy Assistant Commissary A. Bremner, Sub-Engineer, 2nd grade, from Bengal to the Central Provinces, is cancelled.

No. 85.

Mr. Edward Durrant is re-appointed to the Public Works Department as a Supervisor, 1st grade, and posted to the Rajpootana Circle.

No. 86.

Mr. J. L. Parker, Executive Engineer, 1st grade, Futtehghur Branch, Ganges Canal, is appointed to officiate as a Superintending Engineer of the 2nd Class, in the Irrigation Department, North-Western Provinces.

E. C. S. WILLIAMS, *Captain*, R. E.,
*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTICE.

Mr. Robert Stewart is authorised to sign our Firm.

GLADSTONE, WYLLIE, AND CO.

CALCUTTA,
*20th February* 1865.

### NOTIFICATION.

Whereas much inconvenience and difficulty is experienced in the Loan and Interest Departments of this Office in tracing endorsements and receipts for interest written across the reverse of Government Promissory Notes presented for renewal or interest, notice is hereby given, with the sanction of Government, that in future cross receipts for interest will not be accepted, or further interest paid upon any note the reverse of which is filled up. The holders of notes so filled up can obtain new notes on application to the Loan Office, and on payment of the usual fees.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

### COMMISSARIAT NOTIFICATION.

I. Under instructions from Government, the Tannery at Hoonsoor, near Mysore, with all fixtures, is to be disposed of, and notice is hereby given that tenders for the same will be received by the Deputy Commissary General at his Office at Madras, up to 12 o'clock noon of Tuesday, the 21st March 1865.

II. The Tannery stands in an enclosed yard about 626 feet long by 473 feet broad, and is situated on the "Lutchmen Treert" River, has an ample supply of water, and comprises—

"Bark and Raw Hide store-rooms,
"Lime and Bark Pits,
"Upper-storied Currier's shop,
"Buff Mill,
"Work shop,
"Store Godowns for finished goods,"

with all the other requisite buildings for a business capable of turning out 2,000 Hides a month in the best style.

III. The Tannery will be made over to the successful competitor on the 1st of July 1865, on his complying with conditions hereinafter mentioned.

IV. There is a large quantity of stock raw, and in process of tanning, on hand, which the successful competitor for the Tannery will have the option of taking at a valuation, composed of Australian, Cape, and Country Bullock, Buffaloe, Sheep, and Goat Hides.

V. One-third of the price to be paid down in cash on the acceptance of the successful tenders being declared, and the balance on or before the 1st July 1865.

VI. Should the successful competitor for the Tannery take the stock at a valuation, transfer of the whole property can be made at once on payment of balance of price.

VII. Failing the due fulfilment of this engagement, the purchaser will forfeit the aforesaid third of the purchase money.

VIII. Any further information required can be obtained on application at the Commissary General's Office, or to the Deputy Assistant Commissary General at Hoonsoor, who will show the Tannery.

IX. Intending purchasers must satisfy themselves of the nature and description of the Buildings and Articles. This Department will not be answerable for any errors of description.

By order,

E. E. MILLER, *Lieut. Colonel,*
*Deputy Commissary General.*

COMMY. GENERAL'S OFFICE,
*Madras, 21st January* 1865.

### NOTICE.

The Interest and Responsibility of Mr. Walter Brett in the *Englishman* Press and Newspaper ceased on the 31st December 1864, by consent.

WALTER BRETT.
J. O'B. SAUNDERS,
*Managing Proprietor,*
*"Englishman."*

CALCUTTA,
*22nd February* 1865.

*Statement of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 7th March* 1865.

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent. of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 4½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount brought forward from Statement dated 27th February 1865 ... ... | 53,000 | 300 | 25,59,500 | 22,78,400 | 95,63,700 | 65,84,200 | 32,26,600 | 4,80,14,600 | 2,41,17,100 | 17,600 | 16,000 | 9,64,31,000 |
| ADD— | | | | | | | | | | | | |
| Amount enfaced at Madras, as per Registers received up to date... | ... | ... | ... | ... | 9,500 | 500 | 2,500 | 4,000 | ... | ... | ... | 16,500 |
| Amount enfaced at Bombay, as per ditto ditto ditto ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... |
| Amount enfaced at Calcutta up to date ... ... | ... | ... | ... | 21,100 | 9,500 | 5,000 | 22,700 | 45,500 | 12,400 | ... | ... | 1,16,200 |
| Total ... | 53,000 | 300 | 25,59,500 | 22,99,500 | 95,82,700 | 65,89,700 | 32,51,800 | 4,80,64,100 | 2,41,29,500 | 17,600 | 16,000 | 9,65,63,700 |
| DEDUCT— | | | | | | | | | | | | |
| Amount removed from the London Books, as per Registers received up to date ... | ... | ... | ... | ... | ... | ... | ... | 36,800 | 1,000 | ... | ... | 37,800 |
| Total ... | 53,000 | 300 | 25,59,500 | 22,99,500 | 95,82,700 | 65,89,700 | 32,51,800 | 4,80,27,300 | 2,41,28,500 | 17,600 | 16,000 | 9,65,25,900 |

FORT WILLIAM;
LOAN OFFICE,
*The 9th March* 1865.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

No. 56.

## NOTIFICATION.

LOST, STOLEN, OR DESTROYED.

The under-mentioned Government Promissory Note deposited in the Treasure Chest of the late Cawnpore Executive Commissary Officer of this Division (Deputy Assistant Commissary General Captain W. W. Williamson), on the outbreak of the mutiny in the month of June 1857, by Sewbux Roy and Bissen Nath, late Contractors, is not forthcoming. The Note was endorsed in favor of Executive Commissariat Officer, Cawnpore, by the depositor, and has never been endorsed by him to any other party; payment of this Note and of interest thereupon have been stopped at the Loan Office, and application is about to be made to Government for the issue of a duplicate Note in favor of the Executive Commissariat Officer, Cawnpore.

No. 10402 of 1854-55, at 4 per cent., for Rs. 1,000.

S. CHALMERS, *Capt.*,
*Depy. Asst. Commy. Genl.*

CAWNPORE EXE. COMMT. OFFICE,
*The 18th February* 1865.

## BENGAL OFFICIAL ARMY LIST.

The *Bengal Official Quarterly Army List*, No. XI, corrected in the office of the Adjutant General up to the 1st of January 1865, is now ready. Price five Rupees *in advance*, and eight annas extra if sent by post. Apply to

CALCUTTA,
6, *Bankshall Street.* O. T. CUTTER, *Publisher.*

## NOTICE.

The attention of all Treasury Officers drawing Bills on the General Treasury, Bank of Bengal, is hereby called to the necessity of despatching the advices of Bills drawn by them on the day of issue. Much inconvenience is frequently experienced owing to delay on the part of Officers in charge of Treasuries in forwarding these Letters of Advices.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

FORT WILLIAM,
*The 24th February* 1865.

## PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

*By order of the Mortgagees,*

The well-known Indigo Factories called the Allumchund Concern, at Allahabad, with valuable Tilook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

## LOST OR STOLEN.

Lost or stolen at Lucknow during the mutiny,

A Government Paper No. 164 of the 3½ per cent. loan of 1853-54, for Rupees 600, the property of the undersigned, which has been stopped at the Calcutta Treasury.

Notice is hereby given that the undersigned has not endorsed or transferred it.

LUCKNOW,
1*st March* 1865. SOLEMAN MIRZAH, *alias* SAIFOOD DOWLAH.

Government Promissory Note No. 333 of 23889 of 1859-60, for Rupees 1,000, at 5½ per cent., belonging to me, has been destroyed by acid.

RAMCOOMAR CHATTERJEE,
*Head Asst., Barrackpore Exe. Commt. Office.*

BARRACKPORE,
*The 6th March* 1865.

*Just Published*

VOLUME II

OF

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VOLUME VI.—Containing Treaties, &c., relating to the States within the Bombay Presidency.

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 11.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 18, 1865.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th March 1865, and is hereby promulgated for general information:—

## Act No. IX of 1865.

*An Act to amend Act No. XVI of* 1864 (*to provide for the Registration of Assurances.*)

Preamble.

Whereas it is expedient to amend Act No. XVI of 1864 (*to provide for the Registration of Assurances*); It is enacted as follows:—

Addition to tenth Section of Act XVI of 1864.

**1.** The second sentence of the tenth Section of Act No. XVI of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to thirteenth Section of said Act.

**2.** The thirteenth Section of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Act XVI of 1864, Section 25 repealed.

**3.** The twenty-fifth Section of Act No. XVI of 1864 is hereby repealed.

Registration of instruments affecting immoveable property situate in more than one District.

**4.** Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation stating the date on which it was registered and its number in his Register Book to the District Registrar of every District in which any other part of such property is situate, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Recognition of powers of attorney executed by persons absent from India without exact observance of provisions of Section 28 of Act XVI of 1864.

**5.** Every power of attorney not duly executed or attested in compliance with the terms of the twenty-eighth Section of Act XVI of 1864 shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI of 1864, Sec. 40, repealed.

**6.** The fortieth Section of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

**7.** An abstract of every original instrument affecting immoveable property registered in the Office of any Deputy Registrar shall, with an endorsement shewing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date,

to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own Office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in the fifty-sixth Section of the said Act XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI of 1864 during his absence on duty.

**8.** During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the local Government such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

**9.** This Act shall be read and taken as part of the said Act No. XVI of 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept., (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th March 1865, and is hereby promulgated for general information :—

Act No. X of 1865.

*An Act to amend and define the Law of Intestate and Testamentary Succession in British India.*

Preamble.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India; It is enacted as follows :—

PART I.

*Preliminary.*

Short Title.

**1.** This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

**2.** Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

Interpretation Clause.

**3.** In this Act, unless there be something repugnant in the subject or context.—

"Number." "Gender."

Words importing the singular number include the plural: words importign the plural number include the singular; and words importing the male sexinclude females.

"Person."

"Person" includes any Company or Association, or body of persons, whether incorporated or not.

"Year." "Month."

"Year" and "month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property."

"Moveable property" means property of every description except immoveable property.

"Province."

"Province" includes any division of British India having a Court of the last resort.

"British India."

"British India" means the territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106, other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor." "Minority."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person.

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Probate."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Executor."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Administrator."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

"Local Government."

"High Court."

**4.** No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

Interests and powers not acquired nor lost by marriage.

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## PART II.

### *Of Domicile.*

**5.** Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Law regulating succession to a deceased person's immoveable and moveable property, respectively.

*Illustrations.*

(*a.*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b.*) A, an Englishman having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

**6.** A person can only have one domicile for the purpose of succession to his moveable property.

One domicile only affects succession to moveables.

**7.** The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled: or, if he is a posthumous child in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

*Illustration.*

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

**8.** The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Domicile of origin of illegitimate child.

**9.** The domicile of origin prevails until a new domicile has been acquired.

Continuance of domicile of origin.

**10.** A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Acquisition of new domicile.

*Explanation.*—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

*Illustrations.*

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

**11.** Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Special mode of acquiring domicile in British India.

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

**12.** A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

**13.** A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

**14.** The domicile of a minor follows the domicile of whom he derived his domicile of origin.

*Exception.*—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

**15.** By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

**16.** The wife's domicile during the marriage follows the domicile of her husband.

*Exception.*—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

**17.** Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

**18.** An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

**19.** If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

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## Part III.

### *Of Consanguinity.*

Kindred or consanguinity.

**20.** Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

**21.** Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

**22** Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

**23.** For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindre

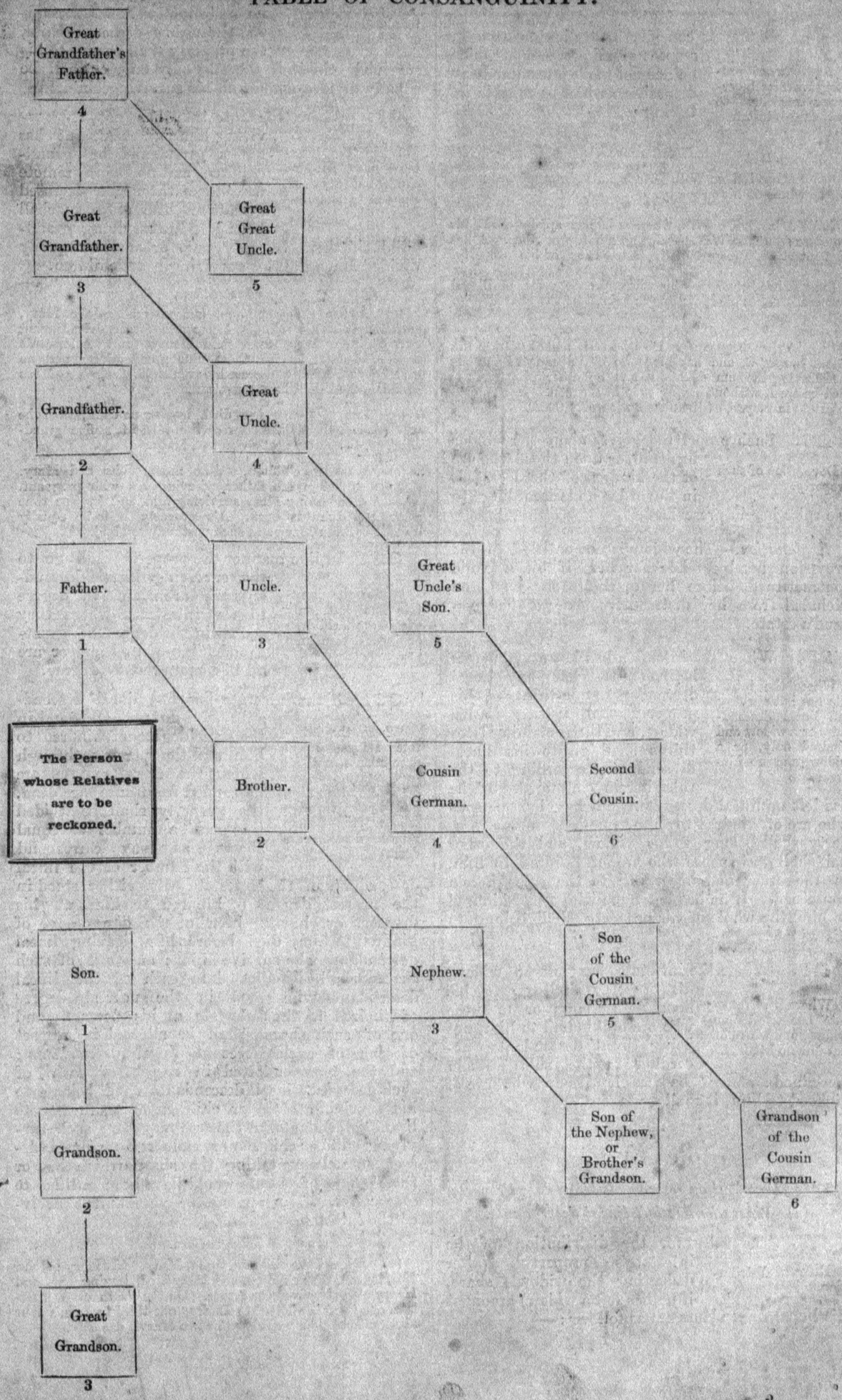
**24.** In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great uncle, for they are both in the sixth degree of kindred.

# TABLE OF CONSANGUINITY.



## PART IV.

### *Of Intestacy.*

As to what property a deceased person is considered to have died intestate.

**25.** A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

*Illustrations.*

(*a*.) A has left no Will. He has died intestate in respect of the whole of his property.

(*b*.) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c*.) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d*.) A has bequeathed 1,000*l* to B, and 1,000*l* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l*.

Devolution of such property.

**26.** Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

*Explanation.*—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

**27.** Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left no widow, and where he has left no kindred.

**28.** Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

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## PART V.

### *Of the Distribution of an Intestate's Property.*

#### *(a) Where he has left lineal descendants.*

Rules of distribution.

**29.** The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Where the intestate has left a child or children only.

**30.** Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left no child, but a grandchild or grand-children.

**31.** Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

*Illustrations.*

(*a*) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

Where the intestate has left only great grandchildren or lineal descendants in a remoter degree.

**32.** In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him, and those through whom the more remote descend are dead.

**33.** If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

*Illustrations.*

(*a*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(b) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(c) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(b) *Where the Intestate has left no lineal descendants.*

Rules of distribution where the intestate has left no lineal descendants.

**34.** Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows :—

Where intestate's father is living.

**35.** If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead, but his mother, brothers and sisters are living.

**36.** If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

*Illustration.*

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

**37** If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's life-time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

*Illustration.*

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

**38.** If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.

*Illustration.*

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

**39.** If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant nor father nor mother.

**40.** Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

**41.** If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

*Illustrations.*

(a) A, the intestate, has left a grandfather and a grandmother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(b) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(c) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(d) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

Children's advancements not to be brought into hotch-pot.

**42.** Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

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## PART VI.

### *Of the Effect of Marriage and Marriage Settlements on Property.*

Rights of widower and widow respectively.

**43.** The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

**44.** If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

No rights to property not comprised in an antenuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

**45.** The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

Settlement of minor's property in contemplation of marriage.

## PART VII.

### *Of Wills and Codicils.*

**46.** Every person of sound mind and not a minor may dispose of his property by Will.

Persons capable of making Wills.

*Explanation* 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

*Explanation* 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

*Explanation* 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

*Explanation* 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

*Illustrations.*

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

**47.** A father whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Testamentary guardian.

**48.** A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Will obtained by fraud, coercion or importunity.

*Illustrations.*

(*a*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favour; such Will has been obtained by fraud, and is invalid.

(*b*) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c*) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

**49.** A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

Will may be revoked or altered.

## PART VIII.

### *Of the Execution of unprivileged Wills.*

**50.** Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules:—

Execution of unprivileged Wills.

*First.*—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

*Second.*—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

*Third.*—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

**51.** If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

Incorporation of papers by reference.

## PART IX.

### *Of Privileged Wills.*

Privileged Will.

**52.** Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

*Illustrations.*

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(*e*) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(*f*) A, a mariner serving on a Military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Mode of making, and rules for executing, privileged Wills.

**53.** Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules :—

*First.*—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

*Second.*—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

*Third.*—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

*Fourth.*—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

*Fifth.*—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his life-time, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

*Sixth.*—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

*Seventh.*—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

## PART X.

### *Of the Attestation, Revocation, Alteration and Revival of Wills.*

Effect of gift to attesting witness.

**54.** A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

*Explanation.*—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest or by being executor.

**55.** No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Revocation of Will by testator's marriage.

**56.** Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Power of appointment defined.

*Explanation.*—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Revocation of unprivileged Will or Codicil.

**57.** No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

*Illustrations.*

(*a*) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

Effect of obliteration, interlineation, or alteration in unprivileged Will.

**58.** No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless

such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

**59.** A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

*Explanation.*—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

**60.** No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

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## PART XI.

### *Of the Construction of Wills.*

Wording of Will.

**61.** It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Enquiries to determine questions as to object or subject of Will.

**62.** For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

*Illustrations.*

(*a*) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A by his Will leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

**63.** Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

*Illustrations.*

(*a*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d*) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(*e*) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f*) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

**64.** Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

*Illustration.*

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

**65.** If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

*Illustrations.*

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(*b*) The testator bequeaths to A "his zamíndárí of Rampore." He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

When part of description may not be rejected as erroneous.

**66.** If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

*Explanation.*—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under the sixty-fifth Section are to be considered as struck out of the Will.

*Illustrations.*

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(*b*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighás of land." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

**67.** Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

*Illustrations.*

(*a*) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*) A, by his Will, leaves to B "his estate called Sultánpur Khurd." It turns out that he had two estates called Sultánpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

**68.** Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

*Illustrations.*

(*a*) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(*b*). A bequeaths 1,000 rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*) A bequeaths to B rupees, or "his estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of any clause to be collected from entire Will.

**69.** The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

*Illustrations.*

(*a*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

When words may be understood in a restricted sense, and when in a sense wider than usual.

**70.** General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

*Illustrations.*

(*a*) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

**71.** Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected, if reasonable construction can be put on it.

**72.** No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

**73.** If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intention to be effectuated as far as possible.

**74.** The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

*Illustration.*

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

**75.** Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

*Illustrations.*

(*a*) The testator by the first clause of his Will leaves his estate of Rámnagar "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(*b*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

**76.** A Will or bequest not expressive of any definite intention is void for uncertainty.

*Illustration.*

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

Words describing subject refer to property answering that description at testator's death.

**77.** The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power of appointment executed by general bequest.

**78.** Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to the objects of a power in default of appointment.

**79.** Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

*Illustration.*

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

Bequest to "heirs," &c., of a particular person without qualifying terms.

**80.** Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

*Illustrations.*

(*a*) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A bequeaths 10,000 rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) A leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

**81.** Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

*Illustration.*

(*a*) A bequest is made to the "legal representatives of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

**82.** Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

**83.** Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

*Illustrations.*

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e*) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*f*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(*g*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

**84.** Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

*Illustrations.*

(*a*) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

**85.** Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

**86.** The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

**87.** In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

*Illustrations.*

(*a*) A, having three children, B, C, and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b*) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d*) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(*e*) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f*) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(*g*) A makes a bequest in favour of the child to be born of a woman, who never becomes his wife. The bequest is void.

(*h*) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

**88.** Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

*First.*—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

*Second.*—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

*Third.*—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

*Fourth.*—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

*Explanation.*—In the four last rules, the word Will does not include a Codicil.

*Illustrations.*

(*a*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement, the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b*) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(*d*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(*e*) A, by his Will, bequeaths to B 5,000 rupees, and by a Codicil to the Will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(*f*) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(*g*) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(*h*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the Will, an annuity of 400 rupees. B is entitled to both legacies.

(*i*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

Constitution of residuary legatee.

**89.** A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

*Illustrations.*

(*a*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b*) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in my "banker's hands to defray and discharge my debts, which I "hereby desire B to do, and keep the residue for her own "use and pleasure." B is constituted the residuary legatee.

(*c*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which a residuary legatee is entitled.

**90.** Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

*Illustration.*

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamíndárí, which belongs to him at the time of his death. B is entitled to the two legacies and the zamíndárí as part of the residue.

Time of vesting of legacy in general terms.

**91.** If a legacy be given in general terms, without specifying the time, when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

In what case a legacy lapses.

**92.** If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

*Illustrations.*

(*a*) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(*e*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

**93.** If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

*Illustration.*

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

**94.** But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

*Illustration.*

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

**95.** Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

*Illustration.*

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

**96.** Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

*Illustration.*

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

**97.** Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

**98.** Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Survivorship in case of bequest to a described class.

*Exception.*—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

*Illustrations.*

(*a*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E and F, were born to B. C and E died in the life time of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(*f*) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children; F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

## PART XII.

### *Of void Bequests.*

**99.** Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Bequest to a person by a particular description, who is not in existence at the testator's death.

*Exception.*—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

*Illustrations.*

(*a*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(*b*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

**100.** Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

*Illustrations.*

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(b) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(c) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(d) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

**101.** No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

*Illustrations.*

(a) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(b) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(c) A fund is bequeathed to A for his life, and after his death to B for his life; with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in the Sections 100, 101.

**102.** If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

*Illustrations.*

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease In all other respects the case is the same as that supposed in Illustration (a). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Sections 100, 101, or 102.

**103.** Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

*Illustrations.*

(a) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(b) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Effect of direction for accumulation.

**104.** A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

*Exception.*—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

*Illustrations.*

(a) The Will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(b) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(c) The Will directs that the rents of the farm of Sultânpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(d) The Will directs that the rents of the farm of Sultânpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(e) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequest to religious or charitable uses.

**105.** No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

*Illustration.*

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and perferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

## PART XIII.

### *Of the Vesting of Legacies.*

Date of vesting of legacy when payment or possession postponed.

**106.** Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

*Explanation.*—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

*Illustrations.*

(a) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(b) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(c) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(d) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(e) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(f) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B, and C, subject to be devested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

**107.** A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

*Exception.*—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necesary, to be applied for his benefit; the bequest of the fund is not contingent.

*Illustrations.*

(a) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(b) A sum of money is bequeathed to A "in case he shall attain the age of 18," or, "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(c) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(d) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(e) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(f) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(g.) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and

after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(*i*) A leaves his farm of Sultânpur Khurd to B, if B shall convey his own farm of Sultânpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

**108.** Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

*Illustration.*

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

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## PART XIV.

### *Of Onerous Bequests.*

Onerous bequest.

**109.** Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

*Illustration.*

A having shares in (X), a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

One of two separate and independent bequests to same person may be accepted, and the other refused.

**110.** Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

*Illustration.*

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

## PART XV.

### *Of Contingent Bequests.*

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

**111.** Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

*Illustrations.*

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the lifetime of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

**112.** Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

*Illustrations.*

(*a*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*d*) Property is bequeathed to A for life, and after his death to B and C, with a direction that in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

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## PART XVI.

### *Of Conditional Bequests.*

Bequest upon impossible condition.

**113.** A bequest upon an impossible condition is void.

*Illustrations.*

(*a*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(b) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

**114.** A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

*Illustrations.*

(a) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(b) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to the vesting of a legacy.

**115.** Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

*Illustrations.*

(a) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(b) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(c) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(d) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(e) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(f) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(g) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A, within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and, on failure of the prior bequest, to B.

**116.** Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

*Illustrations.*

(a) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(b) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

Case in which the second bequest shall not take effect on failure of the first.

**117.** Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

*Illustration.*

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

**118.** A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

*Illustrations.*

(a) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(b) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(c) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(d) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(e) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

**119.** An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

*Illustrations.*

(a) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(b) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(c) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

**120.** If the ulterior bequest be not valid, the original bequest is not affected by it.

*Illustrations.*

(a) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(b) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate

during her life as if no condition had been inserted in the Will.

(c) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

**121.** A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

*Illustrations.*

(a) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(b) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(c) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under Section 107.

**122.** In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the one hundred and seventh Section.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the nonperformance of which the subject-matter is to go over.

**123.** Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

*Illustrations.*

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

Performance of condition, precedent or subsequent, within a specified time.

**124.** Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

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## PART XVII.

### *Of Bequests with Directions as to Application or Enjoyment.*

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

**125.** Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

*Illustration.*

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

**126.** Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him, as if the Will had contained no such direction.

*Illustrations.*

(a) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(b) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

**127.** Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

*Illustrations.*

(a) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(b) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their

decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

## PART XVIII.

### *Of Bequests to an Executor.*

Legatee named as executor cannot take unless he shows intention to act as executor.

**128.** If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

*Illustration.*

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

## PART XIX.

### *Of Specific Legacies.*

Specific legacy defined.

**129.** Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

*Illustrations.*

(*a*) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
"The sum of 1,000 rupees in a certain chest."
"The debt which B owes him."
"All his bills, bonds, and securities belonging to him lying in his lodgings in Calcutta."
"All his furniture in his house in Calcutta."
"All his goods on board a certain ship then lying in the River Hooghly."
"2,000 rupees which he has in the hands of C."
"The money due to him on the bond of D."
"His mortgage on the Rampore Factory."
"One-half of the money owing to him on his mortgage of Rampore Factory."
"1,000 rupees, being part of a debt due to him from C."
"His capital Stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan."
"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."
"All the wine which he may have in his cellar at the time of his death."
"Such of his horses as B may select."
"All his shares in the Bank of Bengal."
"All the shares in the Bank of Bengal which he may possess at the time of his death."
"All the money which he has in the 5½ per cent. loan of the Government of India."
"All the Government securities he shall be entitled to at the time of his decease."
Each of these legacies is specific.

(*b*) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B.
The legacy is specific.

(*c*) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.
The legacy is specific.

(*d*) A bequeaths to B—
His house in Calcutta.
His zamíndárí of Rampore.
His taluk of Rámnagar.
His lease of the Indigo factory of Sulkea.
An annuity of 500 rupees out of the rents of his zamíndárí of W.
A directs his zamíndárí of X to be sold, and the proceeds to be invested for the benefit of B.
Each of these bequests is specific.

(*e*) A by his will charges his zamíndárí of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamíndárí to D. Each of these bequests is specific.

(*f*) A bequeaths a sum of money to buy a house in Calcutta for B.
To buy an estate in Zillah Furreedpore for B.
To buy a diamond ring for B.
To buy a horse for B.
To be invested in shares in the Bank of Bengal for B.
To be invested in Government securities for B.
A bequeaths to B—
"A diamond ring."
"A horse."
"10,000 rupees worth of Government securities."
"An annuity of 500 rupees."
"2,000 rupees, to be paid in cash."
"So much money as will produce 5,000 rupees 4 per cent. Government securities."
These bequests are not specific.

(*g*) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.
No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

**130.** Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

*Illustration.*

A bequeaths to B—
"10,000 rupees of his funded property."
"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."
"10,000 rupees at present secured by mortgage of Rampore Factory."
No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

**131.** Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

*Illustration.*

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.
The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

**132.** A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

*Illustration.*

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.
The legacy is not specific.

When enumerated articles are not to be deemed to be specifically bequeathed.

**133.** Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

Retention in form of specific bequest to several persons in succession.

**134.** Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

*Illustrations.*

(*a*) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

**135.** Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

*Illustration.*

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

**136.** If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

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## PART XX.

### *Of Demonstrative Legacies.*

Demonstrative legacy defined.

**137.** Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

*Explanation.*—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

*Illustrations.*

(*a*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*) A bequeaths to B ten bushels of the corn which shall grow in his field of "Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Rámnagar.

A bequeaths to B "10,000 rupees out of his estate at Rámnagar," or charges it on his estate at Rámnagar.

"10,000 rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

**138.** Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

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## PART XXI.

### *Of Ademption of Legacies.*

Ademption explained.

**139.** If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

*Illustrations.*

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods which shall be in or about his dwelling-house in M Street in Calcutta at the time of his death."

A, in his lifetime,

Sells or gives away the ring.

Converts the chain into a cup.

Converts the wool into cloth.

Makes the cloth into a garment.

Takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(*b*) A bequeaths to B—

"The sum of 1,000 rupees in a certain chest."

"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(*c*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed.

**140.** A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Non-ademption of demonstrative legacy.

**141.** Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Ademption of specific bequest of right to receive something from a third party.

*Illustrations.*

(*a*) A bequeaths to B—
"The debt which C owes him."
"2,000 rupees which he has in the hands of D"
"The money due to him on the bond of E."
"His mortgage on the Rampore Factory."
All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are adeemed.

(*b*) A bequeaths to B—
"His interest in certain policies of life assurance."
A in his lifetime receives the amount of the policies. The legacy is adeemed.

**142.** The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

*Illustration.*

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

**143.** If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

*Illustration.*

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

**144.** Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

*Illustration.*

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

**145.** Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

*Illustration.*

A bequeaths to B—
"His capital stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."
A sells the stock and the notes.
The legacies are adeemed.

**146.** Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

*Illustration.*

A bequeaths to B—
"His 10,000 rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 rupees in the loan in question.
One-half of the legacy is adeemed.

**147.** A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

*Illustrations.*

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

**148.** The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

When removal of thing bequeathed does not constitute ademption.

*Illustrations.*

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

**149.** Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

*Illustration.*

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of Will and testator's death.

**150.** Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

*Illustrations.*

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of 2,000*l.*, invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by Will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

**151.** Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

*Illustration.*

A bequeaths to B "all his three per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be re-placed.

**152.** Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be re-placed, and it is re-placed accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but re-placed and belonging to the testator at his death.

**153.** Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

## PART XXII.

### *Of the Payment of Liabilities in respect of the Subject of a Bequest.*

Non-liability of executor to exonerate specific legatees.

**154.** Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

*Explanation.*—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

*Illustrations.*

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamíndárí, which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

**155.** Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

*Illustrations.*

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land-revenue or rent is payable periodically.

**156.** Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

*Illustration.*

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

**157.** In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such

stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

*Illustrations.*

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime, a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

## PART XXIII.

### *Of Bequests of Things described in general Terms.*

Bequest of thing described in general terms.

**158.** If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

*Illustrations.*

(*a*) A bequeaths to C *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

## PART XXIV.

### *Of Bequests of the Interest or Produce of a Fund.*

Bequest of the interest or produce of a fund.

**159.** Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

*Illustrations.*

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

## PART XXV.

### *Of Bequests of Annuities.*

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

**160.** Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

*Illustrations.*

(*a*) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(*b*) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(*c*) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

**161.** Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

*Illustrations.*

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

Abatement of annuity.

**162.** Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

**163.** Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

## PART XXVI.

*Of Legacies to Creditors and Portioners.*

Creditor *primâ facie* entitled to legacy as well as debt.

**164.** Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Child *primâ facie* entitled to legacy as well as portion.

**165.** Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

*Illustration.*

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

**166.** No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

*Illustrations.*

(*a*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

## PART XXVII.

*Of Election.*

Circumstances in which election takes place.

**167.** Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Devolution of interest relinquished by the owner.

**168.** The interest so relinquished shall devolve as if it had not been disposed of by the Will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Testator's belief as to his ownership immaterial.

**169.** This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

*Illustrations.*

(*a*) The farm of Sultánpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultánpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

Bequest for a man's benefit how regarded for the purpose of election.

**170.** A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

*Illustration.*

The farm of Sultánpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultánpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will or keep his farm of Sultánpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

**171.** A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

*Illustration.*

The lands of Sultánpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultánpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultánpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultánpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

**172.** A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

*Illustration.*

The estate of Sultánpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultánpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultánpur in opposition to the Will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

*Exception to the six last Rules.*—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

*Illustration.*

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultánpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

**173.** Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

*Illustrations.*

(*a*) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultánpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(*b*) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultánpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

Presumption arising from enjoyment by legatee for two years.

**174.** Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

**175.** Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

*Illustration.*

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

Effect of non-compliance with their request within a reasonable time.

**176.** If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Postponement of election in case of disability.

**177.** In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

## PART XXVIII.

### *Of Gifts in Contemplation of Death.*

Property transferable by gift made in contemplation of death.

**178.** A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

When a gift is said to be made in contemplation of death.

Such gift resumable.

When it fails.

*Illustrations.*

(*a*) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.
A bond granted by C to A.
A Bank Note.
A promissory note of the Government of India endorsed in blank.
A Bill of Exchange endorsed in blank.
Certain mortgage deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—
The watch.
The debt secured by C's bond.
The Bank Note.
The promissory note of the Government of India.
The Bill of Exchange.
The money secured by the mortgage deed.

(*b*) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c*) A being ill and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

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## PART XXIX.

### *Of Grant of Probate and Letters of Administration.*

Character and property of executor or administrator as such.

**179.** The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

**180.** When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

**181.** Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

**182.** The appointment may be express or by necessary implication.

*Illustrations.*

(*a*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are those words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

**183.** Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Grant of probate to several executors simultaneously or at different times.

**184.** When several executors are appointed, probate may be granted to them all simultaneously or at different times.

*Illustration.*

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.

**185.** If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will.

Procedure when different executors are appointed by the Codicil.

If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Accrual of representation to surviving executor.

**186.** When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

**187.** No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one hundred and eightieth Section.

Probate establishes the Will from testator's death.

**188.** Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Persons to whom letters of administration may not be granted.

**189.** Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

**190.** No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

From what period letters of administration entitle administrator to intestate's rights.

**191.** Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts of administrator not validated by letters of administration.

**192.** Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Grant of administration where executor has not renounced.

**193.** When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Exception.

Form and effect of renunciation of executorship.

**194.** The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Procedure where executor renounces or fails to accept within the time limited.

**195.** If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Grant of administration to universal or residuary legatee.

**196.** When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

**197.** When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

**198.** When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

**199.** Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

**200.** When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Order in which connections by marriage or consanguinity are entitled to administration.

**201.** If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Administration to be granted to widow unless Court see cause to exclude her.

*Illustrations.*

(*a*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

**202.** If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Persons associated with widow in administration.

**203.** If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Grant of administration where no widow, or widow excluded.

Proviso.

**204.** Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

**205.** The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

Right of widower to administration of wife's estate.

**206.** When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

Grant of administration to a creditor.

**207.** Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

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## PART XXX.

### *Of Limited Grants.*

#### (*a*). *Grants limited in Duration.*

**208.** When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of copy or draft of lost Will.

**209.** When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of contents of lost or destroyed Will.

**210.** When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

Probate of copy where original exists.

**211.** Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it, be produced.

Administration until the Will be produced.

#### (*b*). *Grants for the Use and Benefit of Others having Right.*

**212.** When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the Will annexed, to Attorney of an absent executor.

**213.** When any person to whom, if present, letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration, with the Will annexed, may be granted to his Attorney, limited as above mentioned.

Administration, with the Will annexed to Attorney of an absent person, who, if present, would be entitled to administer.

**214.** When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

**215.** When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before probate of the Will shall be granted to him.

Administration during minority.

**216.** When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration until one of several minor executors or residuary legatees attains majority.

**217.** If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration for use and benefit of lunatic *jus habens.*

**218.** Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

Administration *pendente lite.*

(*c*). *For Special Purposes.*

**219.** If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

Probate limited to purpose specified in the Will.

**220.** If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration with the Will annexed limited to a particular purpose.

**221.** Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to property in which a person has a beneficial interest.

**222.** When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to a suit.

**223.** If at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

**224.** In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Administration limited to collection and preservation of deceased's property.

**225.** When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.'

Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

*(d) Grants with Exception.*

Probate or administration with the Will annexed, subject to exception.

**226.** Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

Administration with exception.

**227.** Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

*(e) Grants of the Rest.*

Probate or administration of the rest.

**228.** Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

*(f) Grants of Effects unadministered.*

Grant of effects unadministered.

**229.** If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

**230.** In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

**231.** When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

*(g) Alteration in Grants.*

What errors may be rectified by the Court.

**232.** Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

**233.** If, after the grant of letters of administration with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

*(h) Revocation of Grants.*

Revocation or annulment for just cause, of grant of probate or administration.

**234.** The grant of probate or letters of administration may be revoked or annulled for just cause.

"Just cause."

*Explanation.*—Just cause is, 1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

*Illustrations.*

(*a*) The Court by which the grant was made had no jurisdiction.

(*b*) The grant was made without citing parties who ought to have been cited.

(*c*) The Will of which probate was obtained was forged or revoked.

(*d*) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e*) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(*f*) Since probate was granted, a later Will has been discovered.

(*g*) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment of executors under the Will.

(*h*) The person to whom probate was or letters of administration were granted has subsequently become of unsound mind.

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## PART XXXI.

*Of the Practice in granting and revoking Probates and Letters of Administration.*

Jurisdiction of District Judge in granting and revoking probates and letters of administration.

**235.** The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

District Judge's powers as to the granting of probate and administration.

**236.** The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge may order any person to produce testamentary papers.

**237.** The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to

in case he had been a party to a suit, and had made such dafault, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

**238.** The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

When and how District Judge is to interfere for the protection of property.

**239.** Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

**240.** Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When application is made to the Judge of a District in which the deceased had no fixed abode.

**241.** When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

Conclusiveness of probate or letters of administration.

**242.** Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

**243.** The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

**244.** Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

**245.** In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Verification of translation made by any person other than the Court translator.

Petition for letters of administration.

**246.** Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

**247.** The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

"I (*A B*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate by one of the witnesses to the Will.

**248.** Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following:—

"I (*C D*), one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*), (*or* that the said tes-

tator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence").

Punishment for making false averment in petition or declaration.

**249.** If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

**250.** In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

Publication of citation.

Caveat against grant of probate or administration.

**251.** Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

**252.** The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at , without notice to C D of ."

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

**253.** No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

Grant of probate to be under seal of the Court.

**254.** When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of letters of administration to be under seal of Court.

**255.** And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the Will annexed, *as the case may be*) of the property and credits of ; late of , deceased, were granted to , the father *(or as the case may be)* of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration Bond.

**256.** Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration-bond.

**257.** The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, and letters of administration until after fourteen days, from the testator's or intestate's death.

**258.** No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

**259.** Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the pre-

servation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

**260.** After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

**261.** In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to executor or administrator before probate or letters of administration revoked.

**262.** Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Right of such executor or administrator to recoup himself for payments.

Appeals from orders made by District Judge under powers conferred by this Act.

**263.** Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent Jurisdiction of High Court.

**264.** The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

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## PART XXXII.

### *Of Executors of their own Wrong.*

Executor of his own wrong.

**265.** A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

*Exceptions.* First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

*Illustrations.*

(*a*) A uses or gives away or sells some of the goods of the deceased or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b*) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c*) A sues as executor of the deceased not being such. He is an executor of his own wrong.

Liability of an executor of his own wrong.

**266.** When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

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## PART XXXIII.

### *Of the Powers of an Executor or Administrator.*

In respect of causes of action surviving the deceased, and rents due at the time of his death.

**267.** An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

Demands and rights of action in favour of or against deceased, survive to and against his executor or administrator.

**268.** All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

*Illustrations.*

(*a*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b*) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of deceased's property.

**269.** An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

*Illustrations.*

(*a*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

**270.** If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Purchase by executor or administrator of deceased's property.

**271.** When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out admininistration.

Powers of several executors or administrators, exercise-able by one.

*Illustrations.*

(*a*) One of the several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, moveable or immoveable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payable to the deceased.

(*f*) The Will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

**272.** Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Survival of powers on death of one of several executors or administrators.

**273.** The administrator of effects unadministered has, with respect to such effects, the same power as the original executor or administrator.

Powers of administrator of effects unadministered.

**274.** An administrator during minority has all the powers of an ordinary administrator.

Powers of administrator during minority.

**275.** When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

Powers of married executrix or administratrix.

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## PART XXXIV.

### *Of the Duties of an Executor or Administrator.*

**276.** It is the duty of the executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

**277.** An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Inventory and account.

**278.** The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

**279.** Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

**280.** The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

**281.** Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid, and then the other debts.

**282.** Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assests of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

**283.** If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

*Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

**284.** No creditor who has received payment of a part of his debt by virtue of the last preceding Section, shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

*Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount.

The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed ratably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

**285.** Debts of every description must be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

**286.** If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies.

**287.** If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Executor not to pay one legatee in preference to another.

Non-abatement of specific legacy when assets sufficient to pay debts.

**288.** Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

**289.** Where there is a demonstrative legacy and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

**290.** If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

*Illustration.*

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for purpose of abatement.

**291.** For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

## PART XXXV.

### *Of the Executor's Assent to a Legacy.*

Executor's assent necessary to complete legatee's title.

**292.** The assent of the executor is necessary to complete a legatee's title to his legacy.

*Illustrations.*

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of D. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to specific legacy.

Assent may be verbal, and either express or implied.

**293.** The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

*Illustrations.*

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

**294.** The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

*Illustrations.*

(*a*) A bequeaths to B his lands of Sultánpur, which at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

Implied assent.

**295.** When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

*Illustration.*

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

**296.** The assent of the executor to a legacy gives effect to it from the death of the testator.

*Illustrations.*

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

**297.** An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

## PART XXXVI.

*Of the Payment and Apportionment of Annuities.*

Commencement of annuity when no time fixed by Will.

**298.** Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly first falls due.

**299.** Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

**300.** Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Apportionment where annuitant dies between times of payment.

## PART XXXVII.

*Of the Investment of Funds to provide for Legacies.*

Investment of sum bequeathed where a legacy, not specific, is given for life.

**301.** Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy to be paid at a future time.

**302.** Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Intermediate interest.

Procedure when no fund is charged with or appropriated to an annuity.

**303.** Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee of amount of contingent bequest.

**304.** Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

**305.** Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

**306.** Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of the conversion and investment.

**307.** Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Interest payable until investment.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

**308.** Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money

so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

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## PART XXXVIII.

### *Of the Produce and Interest of Legacies.*

Legatee of a specific legacy entitled to produce thereof from testator's death.

**309.** The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

*Illustrations.*

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

**310.** The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

*Illustrations.*

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

**311.** Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

*Exceptions.* (1.)—Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.)—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.)—Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

**312.** Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

*Exception.*—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

**313.** The rate of interest shall be four per cent. per annum.

No interest payable on arrears of annuity within first year after testator's death.

**314.** No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

Interest payable on sum to be invested to produce annuity.

**315.** Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

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## PART XXXIX.

### *Of the Refunding of Legacies.*

Refund of legacy paid under Judge's orders.

**316.** When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if legacy paid voluntarily.

**317.** When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

**318.** When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under the one hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

When each legatee is compellable to refund in proportion.

**319.** When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

**320.** Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

Within what period a creditor may call upon a legatee to refund.

**321.** A creditor who has not received payment of his debt may, within two years after the death of the testator or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

**322.** If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When an unsatisfied legatee must first proceed against executor, if solvent.

**323.** If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to the refunding of one legatee to another.

**324.** The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

*Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

**325.** The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

**326.** The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

## PART XL.

*Of the Liability of an Executor or Administrator for Devastation.*

Liability of executor or administrator for devastation.

**327.** When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

*Illustrations.*

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

**328.** When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

*Illustrations.*

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

## PART XLI.

*Miscellaneous.*

Stamps and fees on instruments mentioned in this Act.

**329.** For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

Saving of rights, duties, and privileges of Administrator General.

**330.** Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI of 1860 (*to amend Act VIII of* 1855), The Regimental Debts Act, 1863, and the Administrator General's Act, 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the

limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased.

Succession to property of Hindús, Muhammadans or Buddhists, and certain Wills, intestacies and marriages, not affected by this Act.

**331.** The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Power of Governor General to exempt any race, sect, or tribe in British India from the operation of this Act.

**332.** The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the *Gazette of India*.

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## SCHEDULE.

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### STAMPS.

| | | Stamps. | | |
|---|---|---|---|---|
| Petition for probate or letters of administration where the value of the estate exceeds Rs. 500 ... | Rs. | 10 | 0 | 0 |
| Ditto where the value of the estate is less than Rs. 500 ... | Re. | 1 | 0 | 0 |
| Probate or letters of administration ... | Rs. | 8 | 0 | 0 |
| Caveat ... | Rs. | 4 | 0 | 0 |
| Citation . | Re. | 1 | 0 | 0 |
| All petitions other than those above mentioned . | Re. | 1 | 0 | 0 |
| Inventory ... | Re. | 1 | 0 | 0 |
| Administration-bond .. | Rs. | 8 | 0 | 0 |

### FEE.

| | | | | |
|---|---|---|---|---|
| Translations by the Court Translator or by order of the Court, per folio of ninety words ... | Rs. | 2 | 0 | 0 |

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information :—

## ACT No. XI OF 1865.

*An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.*

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature; It is enacted as follows :—

**1.** In this Act, unless there be something repugnant in the subject or context—

Number. — Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender. — Words importing the masculine gender include females.

"Judge." — "Judge" includes an Acting Judge.

"Section." — "Section" means a Section of this Act.

"Court of Small Causes." — "Court of Small Causes" means a Court constituted under this Act.

"Local Government." — And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

"High Court."

Repeal of Acts XLII of 1860 and XII of 1861.

**2.** Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, and Act XII of 1861 *(to amend Act XLII of 1860)* are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860 or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Constitution of Small Cause Courts.

**3.** The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any

places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Limits of their territorial jurisdiction to be fixed by Local Government.

**4.** Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ,"—and shall be subject to the general control and orders of the High Court.

Seal of the Court.

Courts to be generally subject to the High Court.

**5.** Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

Places where Courts to be held.

**6.** The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court

Suits cognizable by Small Cause Courts.

Proviso.

(1). On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2). For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3). For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4). For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

**7.** The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Power to extend jurisdiction of Small Cause Courts to Rupees 1,000.

**8.** Courts of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Jurisdiction of the Courts.

*Explanations.*—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office, in respect of any cause of action arising at such place.

(*c.*) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

**9.** Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against Government.

**10.** Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Suits against the Secretary of State.

**11.** Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Substituted service of summons.

**12.** Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Panchâyats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 *(for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registers of Deeds)*; or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Panchâyats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Suits cognizable by a Court of Small Causes, not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchâyats in Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Panchayats in Madras.

Judge of Court.

**13.** Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

**14.** It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Local Government may invest any person for a limited period with powers of Judge of Court of Small Causes.

**15.** The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

Powers to be exercised by persons so invested.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

**16.** If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

**17.** Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any district or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Summons.

**18.** In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

In suits cognizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or movable property.

**19.** When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the movable property of the judgment-debtor within the same limits. If the warrant be directed against the movable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

Execution against immovable property, if movable property not sufficient.

**20.** In the execution of a decree under this Act, if, after the sale of the movable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immovable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immovable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Decision in suits tried under this Act to be final.

**21.** In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it

*Ex parte* decree may be set aside.

New trial.

shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Cour be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

On deposit of debt and costs.

**22.** If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred rupees shall, draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

**23.** The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

**24.** The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

**25.** The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

**26.** The High Court when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

**27.** Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

**28.** When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to High Court to alter or set aside order or decree made in the matter.

**29.** Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Power to appoint one of the Courts of a District to be the Principal Court.

**30.** The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

**31.** The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges sit together for trial of certain suits.

**32.** If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court; but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth Sections of this Act shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

**33.** If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference between two Judges on a question of fact.

**34.** If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters above mentioned, the Judge shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

**35.** It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor General of India in Council.

Appointment of Registrar.

**36.** The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

Duties of Registrar.

**37.** If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections twenty-seven to thirty-two both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Procedure where Registrar thinks plaint defective in certain particulars.

Proviso.

**38.** If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Registrar may receive and enter up judgments by confession.

Proviso.

**39.** The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Execution of decrees by Registrar.

**40.** The local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

**41.** The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Hearing of suits cognizable by Registrar.

Transfer from Registrar's to Judge's file.

**42.** No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

Provisions applicable to such reference.

**43.** A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Setting aside decree by a Registrar under Section 38.

**44.** An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar

Appointment and removal of Clerk of the Court.

of any Court of Small Causes may also be the Clerk of the Court.

Duties of Clerk.

**45.** When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

High Court empowered to make rules of practice, &c.

**46.** The High Court shall have power to make and issue general rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Section 26 of Act X of 1862, and of Act VIII of 1859 made applicable to cases cognizable under this Act.

**47.** The twenty-sixth Section of Act X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

Saving of Act XI of 1841, Section 17.

**48.** Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh and eighth Sections of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

**49.** Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer, under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII of 1860 to be read as applying to this Act.

**50.** When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

**51.** Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X of 1859.

**52.** In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by Local Government or High Court.

**53.** Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1865, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight:—

No 9 OF 1865.

*A Bill to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).*

WHEREAS it is expedient to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*); It is enacted as follows:—

Act X of 1862, Section 33, repealed.

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

Governor-General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedules, or on any class of such Deeds, &c.

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that, in the whole of the British Territories in India, or in such part thereof as may be specified in the said order, such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments or Writings specified in the Schedules annexed to the said Act, or on any particular class of such Deeds, Instruments or Writings, or on any of the Deeds, Instruments or Writings belonging to any such class, or he may altogether exempt the same; and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be notified in the Official Gazette.

This Act to be taken as part of Act X of 1862.

3. This Act shall be read with and taken as part of the said Act No. X of 1862.

STATEMENT OF OBJECTS AND REASONS.

The part of the Stamp Act, which the present Bill proposes to amend, is the thirty-third Section. By that Section the Governor-General of India in Council is empowered to reduce the rate of Stamp Duty on all or any of the Deeds, Instruments and Writings described in the Schedules at the end of the Act, or altogether to exempt them from Stamp Duty. The Section, as now framed, might be supposed to be sufficiently large and comprehensive to enable the Government of India to do all that is necessary in the direction of the Section, and to meet every case in which a reduction of Stamp Duty might be deemed just or reasonable; but experience has shewn that the wording of the Section is too restrictive, and that the power given by it requires to be enlarged. An application has recently been made to the Government of India to reduce the Stamp Duty chargeable on bonds which are taken under the Indian Customs Act of 1863. These bonds are now liable to the same Stamp Duty as all other bonds or obligations for the payment of money. Compared with England the amount of Stamp Duty on bonds in this Country is high, and as levied on the class of bonds just mentioned, it is found to press heavily upon trade, and particularly upon the bonders of Salt cargoes. Looking to the circumstances under which these bonds are taken, and to the fact that actions to enforce them are very rare, the Government are disposed to view favourably the proposition that has been made for the reduction of the rate of Stamp Duty to which they are now liable, and to follow to some extent the English practice in respect of such bonds; but they are advised that, although they have power to lower the rate of Stamp Duty on bonds generally in the whole or any part of British India, they have not power to reduce the rate of Stamp Duty on any particular class of bonds. The object of the present Bill is to invest the Government of India with this power as regards not only bonds, but also all other Deeds, Instruments and Writings liable to Stamp Duty.

H. B. HARINGTON.

*The 3rd March* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Report of the Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1865:—

REPORT.

We the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal was referred, have the honour to report that we have considered the Bill.

In consequence of the communication referred to on the introduction of the Bill, we have extended its operation to the Lower Provinces of Bengal. We have also provided for the extension of the Bill to the Territories subject to any Local Government other than the Governments of Bengal and the North-Western Provinces. The Bill may thus become applicable to the whole of British India, and we have therefore thought it desirable to make its provisions more comprehensive and definite than was deemed necessary when, as originally intended, it applied only to the North-Western Provinces.

For the words "Advocates" and "Attorneys" we have substituted "Pleaders" and "Mookhtars," as being more familiar terms and less likely to lead to confusion. We have provided that the High Court (which is defined to mean the highest Civil Court of Appeal in any place in which the Act shall operate), shall make rules not only for the qualification and removal of persons as Pleaders and Mookhtars, but also for their examination; and we propose that the Local Government shall appoint the examiners. These rules are to be submitted to the Local Government for approval. We have further provided for the enrolment of Pleaders and Mookhtars on the Books of the High Court, and for the issue and renewal of annual certificates, stamped with a stamp varying in amount with the Courts in which the holders shall practise. In this, as in other respects, we have, to

some extent, followed the provisions, though not the words, of the English Statute 6 and 7 Vic., cap. 73.

Uncertificated persons (other than Advocates and Attorneys-at-law enrolled in the High Court) practising as Pleaders or Mookhtars are to be liable to fine and imprisonment, and to be incapable of recovering fees.

The High Court is empowered to suspend or dismiss all Pleaders or Mookhtars on its Roll who shall be convicted of a criminal offence. It may also suspend or dismiss any Pleader or Mookhtar guilty of unprofessional conduct: and we have provided a procedure when a charge of such conduct is brought in a subordinate Court. On suspension or dismissal, the Pleader or Mookhtar will have to surrender his certificate.

We have struck out Sections 12 to 15, and have in lieu thereof given power to the High Court to prepare tables of fees chargeable to a party on account of the fees of his adversary's Pleader.

The provisions as to Mookhtars practising in the Revenue Courts (whom we propose to call Revenue Agents) have been made to correspond closely with those applicable to Pleaders and Mookhtars practising in the Civil Courts.

We have fixed the 1st January 1866 for the coming into operation of the Act.

We propose that the Bill as amended, together with this Report, be published for three weeks in the *Gazette of India*.

H. B. HARINGTON.
CECIL BEADON.
H. S. MAINE.
W. MUIR.
R. N. CUST.

*The 7th March* 1865.

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## AMENDED BILL.

### No. 15 OF 1864.

*A Bill to amend the law relating to Pleaders and Mookhtars.*

Preamble.

WHEREAS it is expedient to amend the law relating to Pleaders and Mookhtars; It it enacted as follows:—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The Pleaders and Mookhtars' Act, 1865."

Interpretation of terms.

**2.** In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District." "District Court."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation Provinces, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"Local Government." "High Court." "Board of Revenue."

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief revenue authority therein.

Laws repealed.

**3.** So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

*Of Pleaders and Mookhtars.*

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

**4.** The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also, from time to time, vary and add to such rules.

No person to practise as a Pleader or as a Mookhtar unless previously qualified or admitted and enrolled under this Act.

**5.** No person shall appear, plead, or act as a Pleader, or appear or act as a Mookhtar in any Court in the Territories to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that

every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Local Government to appoint Examiners.

**6.** To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

**7.** The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar, pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

**8.** The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate when renewed, as provided in the ninth Section, may be issued and signed by the Officer so appointed, or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

**9.** Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

**10.** The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—Rs. fifty:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. twenty-five:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. fifteen:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*a.*) In the High Court and any subordinate Court—Rs. twenty-five:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. sixteen:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. eight:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. four.

Pleaders may practise in Criminal Courts and Revenue Offices.

**11.** Pleaders duly admitted and enrolled may appear, plead, and act in any Criminal Court, or before any Board of Revenue, or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled may appear and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Mookhtars may plead in Criminal Courts.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

**12.** Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Any such Pleader or Mookhtar shall also be entitled, with the permission of the presiding Judge or Officer, on production of his certificate and subject to its conditions, to practise as a Pleader or Mookhtar in all other Courts or Revenue Offices within the limits of the general jurisdiction of the High Court in which he is enrolled.

Uncertificated persons practising as Pleader or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

**13.** Any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office in the Territories to which this Act extends without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

**14.** The High Court may suspend or dismiss any Pleader or Mookhtar enrolled in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

**15.** The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

**16.** If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least twenty days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report when made by a Magistrate subordinate to the Magistrate of the District shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

Suspension pending investigation.

**17.** The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Sec. 16.

**18.** When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension, or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court to which this Act extends, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Dismissed Pleader or Mookhtar to surrender his certificate.

*Of Agents practising in the Revenue Offices.*

**19.** No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtaind a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

**20.** The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Names of Revenue Agents to be enrolled.

**21.** Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Form of Certificate.

**22.** The stamp on such certificate, whether original or renewed, shall be of the value of five Rupees.

Value of stamp.

**23.** The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Revenue Board to ascertain qualifications of Revenue Agents.

**24.** To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid and make regulations for conducting the examinations.

Local Government to appoint examiners.

**25.** Every person who shall have been admitted to practise as a Revenue Agent under this Act, may apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, with the permission of the Officer at the head of the Office, on production of the certificate held by him, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory of the Board of Revenue in which he is enrolled.

Enrolment of Revenue Agent in Office in which he shall usually practise.

**26.** The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office who shall be convicted of any criminal offence.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

**27.** The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

**28.** If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his professional duty, the Board shall report the same to the High Court, and the High Court, after making such enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

**29.** If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least twenty days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court, in which he is enrolled, which Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the person charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

**30.** The Board of Revenue in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

Power to Board to call for record.

**31.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any further inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

**32.** The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.

**33.** When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office suspending or dismissing him. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment to imprisonment in the Civil Jail for a term not, exceeding three calendar months.

Dismissed Revenue Agent to surrender his certificate.

**34.** Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

Penalty on unqualified person practising as Agent.

**35.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provision of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have

Persons authorized by general or special powers of attorney may be Agents.

received the general or the special sanction, as the case may be, in that behalf of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction may be revoked or suspended.

**36.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

*Of the Remuneration of Pleaders and Revenue Agents.*

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

**37.** The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts of Civil Judicature, by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

Section 37 not to apply to Agents appointed under Section 35.

**38.** The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents as to remuneration.

**39.** Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office to which this Act extends, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suits.

*Miscellaneous.*

Suitors may appear, &c., for co-suitors.

**40.** Any suitor may appear, plead, and act in any suit, appeal on other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

Rules to be submitted for approval of Local Government.

**41.** The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be submitted to the Local Government for approval, and, when such approval shall have been obtained, they shall be published in three consecutive numbers of the Official Gazette.

Advocates enrolled in a High Court may plead in any Court other than a High Court in which they are not enrolled.

**42.** Every person now or hereafter enrolled as an Advocate on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, subject nevertheless to the rules in force relating to the language in which the Court is to be addressed by Pleaders.

Attorney of a High Court may plead in any Court not a High Court.

**43.** Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to plead in any Court of British India other than a High Court, subject nevertheless to the rules referred to in the last preceding Section.

Sections 8 to 19 to apply to Vakeels of the High Court.

**44.** On and from the first day of January 1866, the provisions contained in Sections eight to nineteen both inclusive shall, *mutatis mutandis*, apply to all persons then and thereafter enrolled as Vakeels on the Roll of any High Court under the Letters Patent constituting such Court.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

**45.** Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court other than the High Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the District Judge, who shall forward the application to the High Court, and such Court shall cause the applicant to be enrolled under the provisions of this Act, and shall authorize the said Judge to grant a certificate to the applicant as provided in the eighth, ninth, and tenth Sections.

Fines subject to revision.

**46.** Every order for imposing a fine, which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue, if the order shall have been passed by an Officer subordinate to such Board.

Commencement and extent of Act.

**47.** This Act shall take effect in the territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to any part of the territories subject to such Government. Every order issued under this Section shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

**48.** From the date on which this Act shall take effect in the territories mentioned or referred to in the last preceding Section, so much of the Regulations, Acts, or Rules for the time being in force in such Territories as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in the Territories in which it shall so take effect.

## FIRST SCHEDULE.

*Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the territories to which this Act extends.*

| Number and date of Regulations. | What Code. | Title. | Extent of Repeal. |
|---|---|---|---|
| Regulation XXVII, 1814. | Bengal Code. | For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature. | So much as has not already been repealed. |
| Regulation VII, 1822. | Bengal Code. | For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land. | Section xxv. |
| Regulation IX, 1825. | Bengal Code. | For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations. | So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825. |

| Number and date of Acts. | Title. | Extent of Repeal. |
|---|---|---|
| Act I of 1846. | For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company. | The whole. |
| Act XVIII of 1852. | To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal. | The whole. |
| Act XX of 1853. | To amend the law relating to Pleaders in the Courts of the East India Company. | The whole. |
| Act X of 1859. | To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal. | So much of Section lxxi. as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix. |

## SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B. Pleader [*or* Mookhtar], whose place [*or* places] of business is [*or* are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*] and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, *or* the Moonsiffs' Courts *as the case may be*] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186

C. D.

Registrar of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

## THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

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## HOME DEPARTMENT.

No. 2452.

*Fort William, the 11th March* 1865.

NOTIFICATIONS.

Captain F. Fitzroy, R. A., Superintendent of the Pegu Survey, has obtained one month's leave to enable him to visit the Presidency for the purpose of appearing before a Medical Board, preparatory to applying for leave of absence to Europe.

Captain Fitzroy's services are placed at the disposal of the Military Department from the date on which he may give over charge of his office.

No. 2454.

The Governor General in Council has been pleased to grant to Mr. T. H. Cowie, Advocate General, leave of absence, on medical certificate, for nine months, under Section 11 of the Covenanted Absentee Rules, from the 23rd instant.

No. 2457.

*The 15th March* 1865.

The Governor General in Council has been pleased to make the following appointments :—

Mr. Joseph Graham, Standing Counsel to the Government of India, to officiate as Advocate General.

Mr. H. A. Eglinton, to officiate as Standing Counsel to the Government of India, vice Mr. Graham.

No. 2458.

*The 16th March* 1865.

The Governor General in Council is pleased to re-attach to the Bengal Division of the Presidency of Fort William, Mr. H. A. R. Alexander, of the Civil Service, who returned from furlough on the 14th instant.

No. 2459.

The Governor General in Council is pleased to attach Mr. M. S. Champneys, of the Civil Service, reported qualified for the public service, to the North-Western Provinces, the Punjab, and Oude, and to place his services at the disposal of the Foreign Department.

No. 2460.

Messrs. J. W. Neill, R. F. Rampini, and G. Smeaton, Junior Civil Servants, having, within the prescribed interval after arrival in India, passed examinations in two languages, have each been presented with the authorized donation of Rs. 800.

No. 2461.

The Reverend E. J. Tandy (Chaplain of Fyzabad) is appointed Chaplain of Lucknow Cantonment, in succession to the Reverend H. B. Burney.

No. 2462.

The Reverend W. Ayerst (Chaplain of Roy Bareilly) is appointed Chaplain of Fyzabad.

No. 2463.

The Reverend J. B. Patch (Chaplain of Tounghoo) is appointed Chaplain of Roy Barrielly, in succession to the Reverend W. Ayerst.

No. 2464.

The Reverend A. O. Hardy, M. A., appointed a Junior Chaplain on the Bengal Establishment, reported, on the 3rd instant, his arrival at the Sand Heads on the 2nd idem.

2. The Right Reverend the Lord Bishop has appointed the Reverend A. O. Hardy to be His Lordship's Domestic Chaplain.

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No. 2466.

The services of the Reverend T. C. Matthews, Chaplain of Thyet Myoo, are placed at the disposal of the Government of the Punjab, with effect from the date of his quitting his station.

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No. 2466 A.

The services of the Reverend W. G. Cowie, Junior Chaplain on the Bengal Establishment, are placed at the disposal of the Government of the Punjab.

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No. 2470.

*The 17th March* 1865.

The Governor General in Council is pleased to invest Mr. C. Grant, Officiating Deputy Commissioner of Jubbulpore, with the powers described in Section I of Act XV of 1862.

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No. 2472.

Lieutenant Colonel D. C. Vanrenen, Revenue Surveyor, 2nd Division, Oudh, is allowed one month's privilege leave of absence, from the date on which he may avail himself of the same.

Lieutenant A. D. Butter, Assistant Revenue Surveyor, 1st Division, Oudh, is appointed to take charge of the 2nd Division, Oude Revenue Survey, during the absence on leave of Lieutenant Colonel D. C. Vanrenen, or until further orders.

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No. 2474.

Mr. E. Little, Sub-Assistant Revenue Surveyor, 3rd Class, in the 1st Division, Central Provinces, is allowed two months' privilege leave of absence, from the 1st of January 1865.

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No. 2476.

Mr. N. Garstin, Assistant District Superintendent, assumed charge of the Office of District Superintendent of Police, Hurdui, in the forenoon of the 24th ultimo.

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No. 2478.

Mr. N. Cumberlege, Assistant Superintendent of Police, Berar, reported his arrival at Akola on the 3rd February 1865, and assumed charge of his appointment on the afternoon of the same date.

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No. 2480.

The Governor General in Council is pleased to invest the under-mentioned native gentlemen of the Nimar District, in the Central Provinces, respectively, with the powers of Subordinate Magistrates of the 1st and 2nd Classes, described in Section 22 of the Code of Criminal Procedure, to be exercised within the jurisdictions noted opposite their names:—

*1st Class.*

| | |
|---|---|
| 1. Azeezool Rehman, Kazee of Boorhanpore. | In the city of Boorhanpore, and within a circle of 10 miles (from that city) in the Boorhanpore Tehseelee Division. |
| 2. Huree Kurum, Principal Mundloee in the Khundwah Pergunnah. | Khundwah Pergunnah. |
| 3. Rana Keerut Singh, Zemindar of Burwai. | In Burwai Pergunnah, exclusive of Onkur Mandata, Godurpoora, and Bukulgurh Sylanee. |
| 4. Rao Sirdar Singh, Chief of Mandata. | In the town of Onkur Mandata and the village of Godurpoora. |

*2nd Class.*

| | |
|---|---|
| 5. Rao Oomed Singh, Zemindar of Sylanee. | In Sylanee and Muslai, his jageer villages. |
| 6. Rana Nuhur Singh, Zemindar of Peeplode. | Peeplode Pergunnah. |
| 7. Onkur Singh, Mundloee of Dhurgaon. | Dhurgaon Pergunnah. |
| 8. Rao Dowlut Singh, Zemindar of Bhamgurh. | Bhamgurh Pergunnah. |

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No. 2482.

Leave of absence for four weeks, from the 15th instant, is granted to Mr. C. A. R. Browning, B. A., Officiating Director of Public Instruction, Central Provinces, preparatory to his applying for furlough to Europe, on medical certificate.

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No. 2484.

The Governor General in Council is pleased to grant to the Reverend H. B. Burney, Chaplain of Lucknow Cantonment, leave of absence for six months, under Section 9 of the Military Rules, with effect from the 13th instant.

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No. 2485.

*Erratum.*—In Notification No. 1984 of this Department, published at page 268 of the *Gazette of India*, notifying the return of the Hon'ble Sir Barnes Peacock, for "*13th ultimo*" read "*12th ultimo.*"

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No. 2489.

Mr. R. C. A. Hamilton, District Superintendent of Police in Oude, has obtained six months' leave to Europe on private affairs, from the 15th proximo, under para. 12 of the new Uncovenanted Service Absentee Rules.

E. C. BAYLEY,
*Secy. to the Govt. of India.*

No. 2486.

ELECTRIC TELEGRAPH.

*Fort William, the 16th March* 1865.

NOTIFICATION.

In publishing the subjoined Extract from a Despatch from the Right Hon'ble the Secretary of State for India, communicating the intelligence of the death of Lieutenant Colonel Patrick Stewart, R. E., the Governor General in Council desires to express the deep regret which the loss of this able and distinguished public servant has caused to the Government of India :—

*Extract para.* 1 *of the Secretary of State's Telegraph Despatch No.* 1, *dated* 26*th January* 1865.

PARA. 1.—" It is with deep concern that I announce to your Excellency the decease of Lieutenant Colonel Patrick Stewart, R. E., which took place at Constantinople on the 16th instant. In him the State has been deprived of a servant of distinguished ability and of unsurpassed activity and zeal."

By order of the Governor General in Council,

E. C. BAYLEY,

*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

No. 115.

MILITARY.

*Fort William, the 16th March* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to make the following appointments :—

Colonel H. Daly, C. B., Commandant of the Central India Horse, to officiate as Political Assistant for Western Malwa at Augur, in addition to his other duties.

Captain C. Martin, 2nd in Command of the 2nd Corps Central India Horse at Goona, to officiate, in addition to his other duties, as Political Assistant at Goona, in succession to Colonel Daly.

Captain C. James, 2nd Squadron Officer, 2nd Regiment, to officiate, on return from Europe, as 2nd in Command, 1st Corps Central India Horse, during Lieutenant Bradford's absence.

Captain F. P. Luard, Officiating 2nd Squadron Officer, 1st Corps Central India Horse, to officiate as 2nd in Command of the Corps, pending the arrival of Captain James.

No. 118.

*The 17th March* 1865.

The Governor General in Council is pleased to sanction the following promotions in the Meywar Bheel Corps :—

Jemadars Dowlut Meer Khan and Baleea to be Subadars from the 1st December 1864.

Havildars Hurpursad Opadia and Mungleea to be Jemadars from the 1st December 1864.

No. 120.

Lieutenant E. R. C. Bradford, Commanding 1st Regiment Central India Horse, is granted one month's leave of absence from the 2nd of March, or from the date of his departure from Augur, preparatory to applying for furlough to Europe on medical certificate.

POLITICAL.

No. 221.

*The 11th March* 1865.

The services of Captain E. P. Gurdon, Superintendent of Myhere, in Central India, are re-transferred to the Punjab Government from the 23rd instant.

No. 224.

*The 13th March* 1865.

Major G. B. Malleson is appointed to officiate as Agent, Governor General, with the King of Oudh, and Superintendent of Political Pensions in the room of Lieutenant Colonel C. Herbert, who has proceeded to England on special duty.

Major Malleson received charge of the above offices from Lieutenant Colonel Herbert on the forenoon of the 7th March.

GENERAL.

*The 13th March* 1865.

No. 566.

Major E. B. Ramsay, Military Assistant to the Commissioner of Mysore, embarked for England on the French Steamer "Erymanthe" on the 7th February 1865.

No. 567.

The following Junior Civil Servants who have been appointed to Oudh, reported their arrival at Lucknow on the dates specified opposite their names :—

| | | |
|---|---|---|
| Mr. C. W. McMinn | - | 13th February 1865. |
| " J. C. Williams | - | 13th " " |
| " J. Woodburn | - | 15th " " |
| " J. T. Crawford | - | 17th " " |
| " C. Steinbelt | - | 25th " " |

No. 568.

Mr. E. Bickers, Extra Assistant Commissioner of Lucknow, has obtained privilege leave of absence for one month, from the 8th instant, or from the subsequent date on which he may avail himself of it.

No. 570.

Assistant Surgeon M. W. Mott, M. D., in medical charge of the Bhurtpore Agency, has obtained privilege leave of absence for three months, from the 15th April next, or from such date as he may avail himself of it.

No. 572.

Surgeon Major J. Kirkpatrick, M. D., Surgeon to the Mysore Commission, has been granted privilege leave of absence for 30 days, from date of departure from Bangalore.

No. 574.

1st Class Native Doctor Behary Sing is appointed to the medical charge of the Political Agency at Munnipore, vice Native Doctor Goluck Chunder Sen, who has resigned the service.

No. 577.

Captain S. S. Boulderson, Assistant Settlement Officer, Lucknow, has obtained privilege leave of absence for three months, from the 1st May next, or from the subsequent date on which he may avail himself of it.

No. 580.

Major T. M. McHutchin, Deputy Superintendent, Mysore District, has obtained privilege leave of absence for two months from the 18th instant.

No. 582.

Mr. W H. Kerr, Superintendent of Coorg, has obtained special leave of absence for six months beyond the limits of India on urgent private affairs, together with the usual preparatory leave to reach the port of embarkation.

No. 602.

*The 16th March* 1865.

Mr. H. W. Beddy, Officiating Deputy Commissioner, 3rd Grade, Sandoway, British Burmah, resumed charge of the Treasury at Sandoway from Tseekay Moung Htoon on the afternoon of the 14th of January.

Captain A. R. McMahon, Officiating Deputy Commissioner, 4th grade, British Burmah, received charge of the District and Treasury at Ramree from Major E. M. Ryan on the afternoon of the 31st of January.

No. 604.

Lieutenant J. Low, Assistant Commissioner of Oonao, has obtained leave for twenty-four days, from the 15th April next, or from the subsequent date on which he may avail himself of it, preparatory to applying for leave to Europe on medical certificate.

No. 606.

Lieutenants D. W. Laughton and A. G. W. Hemans, of the Hyderabad Contingent, are appointed Assistant Commissioners of the 3rd Class, in the Berars. The appointments to have effect from the 29th December last.

No. 608.

Lieutenant W. Hill, 3rd Class Deputy Superintendent of the Chittledroog District, in Mysore, rejoined his duty from sick leave to Europe on the 1st February 1865.

No. 609.

Mr. E. Richardson, Extra Assistant Commissionor, 1st grade, British Burmah, assumed charge of the Office of Extra Assistant Commissioner, 1st Grade, at Prome, on the afternoon of the 2nd of February.

No. 611.

Mr. W. Oldham, Officiating Deputy Commissioner of Fyzabad in Oudh, availed himself, on the afternoon of the 16th February, of the preparatory leave granted to him in G. O. No. 722, dated 20th July last, making over charge of his Office to Mr. T. H. Kavanagh, v. c., Assistant Commissioner.

Mr. Kavanagh officiated as Deputy Commissioner from the afternoon of the 16th to the afternoon of the 25th February.

Mr. E. B. Thornhill assumed charge of the Office of Officiating Deputy Commissioner of Fyzabad from Mr. Kavanagh on the afternoon of the 25th idem.

No. 612.

The Governor General in Council is pleased to appoint Mr. F. O. Mayne, C. B., to be Commissioner of the Baiswarra Division, in Oudh, vice Mr. Charles Currie.

No. 615.

GENERAL.

Lieutenant F. W. Grant, Assistant Commissioner, 2nd Class, in the Hyderabad Assigned Districts, assumed charge of his Office on the afternoon of the 17th February 1865.

No. 616.

Captain E. R. Twyford, District Superintendent of Police, Central Provinces, is appointed to officiate as Deputy Commissioner of Baitool as a temporary arrangement, with effect from the date on which he took over charge from Captain G. Warner.

No. 619.

Captain H. Fraser, 2nd Assistant to the Resident at Hyderabad, has obtained the usual preparatory leave, from the 21st ultimo, to proceed to Bombay for the purpose of applying for leave to Europe on urgent private affairs.

Lieutenant W. Tweedie, Adjutant, 1st Cavalry Hyderabad Contingent, is appointed to officiate for Captain Fraser during that Officer's absence.

No. 627.

*The 17th March* 1865.

*Erratum.*—In G. O. No. 1560, dated 13th December 1864, for Baboo "Bhugwut Doss," read "Bhugwut Mahuntee."

No. 630.

Mr. W. H. Kerr, Superintendent of Coorg, made over charge of his Office and Treasury to Mr. Assistant Superintendent C. Soobiah, on the afternoon of the 17th ultimo.

Lieutenant R. A. Cole, Superintendent of Police, Bangalore Cantonment, is appointed to officiate as Superintendent of Coorg during Mr. Kerr's absence.

Lieutenant W. Hill, Deputy Superintendent of the Chittledroog District, is appointed to officiate as Superintendent of Police, Bangalore Cantonment.

No. 632.

Mr. J. C. Colvin, Officiating Deputy Commissioner of Seetapore, in Oudh, has obtained twenty-five days' preparatory leave from the 13th April 1865, or from the subsequent date on which he may avail himself of it.

No. 634.

Captain J. Loch, Assistant Commissioner of Nagpore, has obtained privilege leave of absence for three months, from the 20th instant, or from the date on which he may avail himself of it.

No. 636.

The services of Assistant Surgeon D. Kearney, in Civil medical charge of Shoaygyeen, in British Burmah, are replaced at the disposal of the Madras Government.

No. 639.

Mr. J M. C. Steinbelt, c. s., lately transferred to the Oudh Commission, is appointed an Assistant Commissioner of the 3rd Grade, on the permanent Establishment, vice Mr. H. Gibson, promoted.

A. Colvin,
*Offg. Under Secy. to the Govt. of India.*

## FINANCIAL DEPARTMENT.

No. 1514.

*Fort William, the 15th March* 1865.

Notification.

Mr. H. D. Sandeman, to be Deputy Auditor and Accountant General, Bengal.

E. H. Lushington,
*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 11th March* 1865.

*No.* 252 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment :—

*Judge Advocate General's Department.*

Major J. N. Young, Deputy Judge Advocate General, Lahore Division, to officiate as Deputy Judge Advocate General at Army Head Quarters, during the absence of Lieutenant Colonel Maisey on sick leave, or until further orders.

*No.* 253 *of* 1865.—Assistant Surgeon James Charles Dickinson, of the Medical Department, is permitted to resign the service, subject to Her Majesty's approval.

*The 13th March* 1865.

*No.* 254 *of* 1865.—With reference to the Notification from the Foreign Department, No. 196 of the 6th instant, the services of Captain W. Bannerman, of the 3rd Bombay Native Infantry, are re-placed at the disposal of the Government of Bombay.

*No.* 255 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

Captain Alfred Blunt, of the Bengal Staff Corps. } For 2 years.

*No.* 256 *of* 1865.—Magazine Sergeant William Ross, having passed the prescribed examination, is appointed to officiate as Sub-Conductor in the Ordnance Department to fill an existing vacancy.

*The 14th March* 1865.

*No.* 257 *of* 1865.—The following Extracts from the *London Gazettes* of the 24th and 31st January 1865, are published for general information :—

War Office, *Pall-Mall,*
*24th January* 1865.

*Brevet.*

The under-mentioned promotions to take place consequent on the decease of Lieutenant General Matthew Coombs Paul, Bengal Infantry, on 7th January 1865 :—

Major General James Bell, Madras Infantry, to be Lieutenant General, dated 8th January 1865.

Colonel William Fergusson Beatson, Bengal Infantry, to be Major General, dated 8th January 1865.

The under-mentioned Officers, who have retired on full pay, to have a step of honorary rank as follows :—

Colonel Saunders Alexius Abbott, Bengal Infantry, to be Major General, dated 24th January 1865.

Lieutenant Colonel Joseph Charles Coley, Bombay Infantry, to be Colonel, dated 24th January 1865.

Major Christopher Buckle, Bombay Staff Corps, to be Lieutenant Colonel, dated 24th January 1865.

Captain Richard Francis Grindall, Bengal Infantry, to be Major, dated 24th January 1865.

War Office, *Pall-Mall,*
*31st January* 1865.

*Brevet.*

Captain Thomas Gilbert Kennedy, Bengal Staff Corps, to be Major, dated 19th January 1865.

*No.* 258 *of* 1865.—The promotion of the under-mentioned Officers (retired, deceased, &c., &c.) published in Government General Order No. 892 of the 11th November 1861, is hereby cancelled, under instructions from the Right Hon'ble the Secretary of State :—

PROMOTIONS.

| Corps. | Rank and Names. | To what rank Promoted. | From what Date. |
|---|---|---|---|
| Late 59th N. I. | Major G. W. Stokes, (retired, 31st December 1861) ... | Lt. Colonel | 18th Feb. 1861 |
| „ 51st N. I. | „ W. Lamb, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 23rd N. I. | „ E. F. Smith, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 11th N. I. | „ W. Lydiard, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 29th N. I | „ G. W. Williams, C. B., (retired, 31st December 1861) .. | Ditto ... | Ditto. |
| „ 4th E. L. C. | „ T. F. B. Beatson, (retired, 31st December 1861) .. | Ditto ... | Ditto. |
| „ 46th N. I. | „ H. S. Grimes, (retired, 28th February 1861) ... | Ditto ... | Ditto. |
| „ 42nd N. I. | „ D. Gaussen, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| Staff Corps ... | „ C. R. Browne, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| Late 3rd E. R. | „ H. M. Nation, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| Staff Corps ... | „ W. C. Erskine, C. B., (retired, 25th September 1861) ... | Ditto ... | Ditto. |
| Late 31st N. I. | „ W. B. Legard, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 60th N. I. | „ J. E. Verner, (retired, 22nd March 1861) ... | Ditto ... | Ditto. |
| „ 31st N. I. | „ G. Newbolt, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 74th N. I. | „ J. T. Daniell, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 32nd N. I. | „ T. S. Horsbrugh, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 9th N. I. | „ R. Thatcher, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 33rd N. I. | „ A. Martin, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 42nd N. I. | „ A. H. Ross, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 48th N. I. | „ C. Hasell, (deceased, 24th May 1861) .. | Ditto ... | Ditto. |
| „ 30th N. I. | „ J. Morrieson, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 4th E. L. C. | „ E. Harvey, (retired, 21st September 1861) ... | Ditto ... | Ditto. |
| „ 48th N. I. | „ H. L. Bird, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 17th N. I. | „ T. G. St. George, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 3rd E. R. | „ J. C. Phillips, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 69th N. I. | „ E. Sissmore, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 13th N. I. | „ W. McCulloch, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 15th N. I. | „ J. W. Carnegie, C. B., (removed from the Army, 5th June 1862) | Ditto ... | Ditto. |
| „ 25th N. I. | „ C. J. Richards, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 9th N. I. | „ R. H. Sale, (retired, 17th March 1861) ... | Ditto ... | Ditto. |
| „ 66th N. I. | „ W. S. Sherwill, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 21st N. I. | „ Joseph Chambers (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 70th N. I. | „ G. N. Greene, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 49th N. I. | „ H. J. Piercy, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 25th N. I. | „ H. J. C. Shakespear, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 30th N. I. | „ C. F. Fenwick, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 57th N. I. | „ C. S. Salmon, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 11th N. I. | Captain S. J. Becher, (retired, 31st December 1861) ... | Ditto ... | Ditto. |

PROMOTIONS,—*(continued.)*

| Corps. | Rank and Names. | To what rank Promoted. | From what Date. |
|---|---|---|---|
| Late 43rd N. I. | Captain R. A. Trotter, (retired, 31st December 1861) ... | Lt. Colonel | 18th Feb. 1861 |
| „ 60th N. I. | „ D. Stansbury, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 66th N. I. | Major H. Strachey, (retired, 31st December 1861) ... | Ditto ... | 12th June 1861 |
| „ 67th N. I | „ E. W. Hicks, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 39th N. I. | „ T. Pownall, (retired, 31st December 1861) ... | Ditto ... | 13th June 1861 |
| „ 33rd N. I. | „ T. Watson, (retired, 31st December 1861) ... | Ditto ... | 12th Dec. 1861 |
| „ 5th E. R. | „ A. B. Fenwick, (deceased, 25th November 1863) ... | Ditto ... | 10th Jan. 1863 |
| „ 74th N. I. | „ W F. N. Wallace, (retired, 30th December 1863) ... | Ditto ... | 11th Dec. 1863 |
| „ 55th N. I. | Captain T. M. Cameron, (retired, 27th April 1861) ... | Major ... | 18th Feb. 1863 |
| „ 66th N. I. | „ H. Strachey, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 74th N. I. | „ W. F. N. Wallace, (retired, 30th December 1863) ... | Ditto ... | Ditto. |
| Staff Corps ... | „ W. Wyld, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| Late 39th N. I. | „ R. H. D. Tulloh, (retired, 30th September 1861) ... | Ditto ... | Ditto. |
| „ 67th N. I. | „ E. W. Hicks, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 33rd N. I. | „ T. Watson, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 72nd N. I. | „ G. E. Ford, (retired, 22nd December 1862) ... | Ditto ... | Ditto. |
| „ 5th E. R. | „ A. B. Fenwick, (deceased, 25th November 1863) .. | Ditto ... | Ditto. |
| „ 18th N. I. | „ F. C. Tombs, (retired, 31st December 1861) ... | Ditto ... | Ditto. |
| „ 33rd N. I. | „ T. Tulloh, retired, 15th August 1861) ... | Ditto ... | Ditto. |
| Ditto ... | „ T. H. Shum, (retired, 19th February 1861) ... | Ditto ... | Ditto. |
| „ 32nd N. I. | „ E. Close, (retired, 12th September 1861) ... | Ditto ... | Ditto. |
| „ 53rd N. I. | „ The Baron F. A. Von Meyern, (retired, 10th September 1861 | Ditto ... | Ditto. |
| „ 65th N. I. | „ T. Gordon, (retired, 1st July 1863) ... | Ditto ... | Ditto. |
| „ 29th N. I | „ L. P. Faddy, (retired, 9th September 1861) ... | Ditto ... | Ditto. |
| „ 3rd E. R. | „ R. C. Stevenson, (retired, 28th February 1861) ... | Ditto ... | Ditto. |
| Staff Corps ... | „ B. Henderson, C. B., (deceased, 23rd August 1861) ... | Ditto ... | Ditto. |
| Late 51st N. I. | „ W. R. Wallace, (retired, 29th February 1864) ... | Ditto ... | Ditto. |
| „ 67th N. I. | „ W. C. Clifton, (retired, 10th October 1861) ... | Ditto ... | Ditto. |
| „ 29th N. I. | „ H. M. Davidson, (deceased, 25th September 1863) ... | Ditto ... | Ditto. |
| „ 22nd N. I. | „ J. W. Smith, (deceased, 19th July 1862) ... | Ditto ... | Ditto. |
| „ 19th N. I. | „ L. R. Newhouse, (deceased, 13th July 1862) ... | Ditto ... | Ditto. |
| Ditto ... | „ J. MacDougall, (retired, 1st April 1864) ... | Ditto ... | Ditto. |
| „ 64th N. I. | „ R. M. Nott, (retired, 14th January 1864) ... | Ditto ... | 8th Mar. 1861 |
| „ 35th N. I. | „ E. R. Wiggins, (retired, 27th September 1861) ... | Ditto ... | Ditto. |
| „ 40th N. I. | „ J. S. D. White, (deceased, 25th September 1861) ... | Ditto ... | 11th June 1861 |
| Staff Corps ... | „ M. R. Somerville, (deceased, 3rd September 1862) ... | Ditto ... | 12th June 1861 |
| Late 29th N. I. | „ F. G. Thellusson, (resigned, 25th July 1862) ... | Ditto ... | Ditto. |
| „ 52nd N. I. | „ F. M. Martin, (retired, 10th October 1862) ... | Ditto ... | 8th Jan. 1862 |
| „ 29th N. I. | Lieutenant F. R. Thomson, (deceased, 12th August 1862) ... | Ditto ... | 11th June 1862. |
| „ 11th N. I. | „ F. A. Sage, (retired, 31st March 1864) ... | Ditto ... | Ditto. |

PROMOTIONS,—*(continued.)*

| Corps. | Rank and Names. | To what rank Promoted. | From what Date. |
|---|---|---|---|
| Late 35th N. I. | Lieutenant R. Maxwell, (retired, 31st May 1864) ... | Major ... | 12th June 1862 |
| „ 73rd N. I. | „ S. Rogers, (deceased, 27th February 1864) ... | Ditto ... | 19th ditto. |
| „ 51st N. I. | Captain E. R. Blavi, (deceased, 9th December 1863) ... | Ditto ... | 10th July 1862 |
| „ 42nd N. I. | „ E. V. H. Holt, (retired, 18th November 1862) ... | Ditto ... | 25th ditto. |
| „ 47th N. I. | „ C. P. Lucas, (retired, 23rd March 1863) ... | Ditto ... | 10th Dec. 1862 |
| „ 35th N. I. | „ H. T. Pollock, (deceased, 29th April 1863) ... | Ditto ... | 28th ditto. |
| „ 37th N. I. | Lieutenant O. M. Glubb, (deceased, 27th July 1861) ... | Captain ... | 18th Feb. 1861 |
| „ 2nd E.B.F. | „ C. R. Blair, (Invalided, 2nd April 1861) ... | Ditto ... | Ditto. |
| „ 10th N. I. | „ E. L. Clogstoun, (retired, 19th February 1861) ... | Ditto ... | Ditto. |
| „ 70th N. I. | „ W. M. Grierson, (deceased, 21st April 1861) ... | Ditto ... | Ditto. |
| „ 2nd E. B.F. | „ The Hon'ble F. B. Best, (retired, 10th August 1863) ... | Ditto ... | Ditto. |
| „ 69th N. I. | „ C. G. Thorp, (resigned, 15th October 1861) ... | Ditto ... | Ditto. |
| „ 58th N. I. | „ C. L. Richardson, (deceased, 4th May 1861) ... | Ditto ... | Ditto. |
| „ 36th N. I. | „ W. W. Clarke, (deceased, 13th October 1863) ... | Ditto ... | Ditto. |
| „ 68th N. I. | „ H. H. Christian, (retired, 26th May 1862) ... | Ditto ... | 27th June 1861 |
| „ 47th N. I. | „ T. W. Evans, (deceased, 25th July 1863) ... | Ditto ... | 16th Feb. 1862 |
| „ 24th N. I. | „ G. H. E. Howard, (deceased, 9th March 1863) ... | Ditto ... | 10th Dec. 1862 |

*No.* 259 *of* 1865.—Subadar Shaik Hussen, "Bahadoor," of the 1st Bombay Regiment Native Infantry (Grenadiers), is promoted from the 2nd to the 1st Class of the "Order of British India," with the title of "Sirdar Bahadoor." Subadar Major Syed Currim, of the 6th Regiment Bombay Native Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor." — From the 19th September 1864, in succession to Pensioned Subadar Major Chainsing, "Sirdar Bahadoor," deceased.

Subadar Major Sillimanjee Israel, of the 25th Regiment Bombay Native Light Infantry, is admitted to the 2nd Class "Order of British India," with the title of "Bahadoor." — From the 20th November 1864, in succession to Pensioned Subadar Major Sirdar Sing, "Bahadoor," deceased.

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*No.* 260 *of* 1865.—His Excellency the Governor General in Council has had under his consideration the subject of the formation of an Unattached List for Non-Commissioned Officers and Soldiers of the Native Army, in connection with the Lower Subordinate Establishment of the Department Public Works, similar to that on which the names of European Non-Commissioned Officers and Soldiers of the Upper Subordinate Establishment appear on their permanent appointment to that Department, and His Excellency in Council directs the formation of such a list.

2. Lists of the qualified candidates in each Regiment will be kept in the Office of the Adjutant General, and application for the services of such men as may be desirous of employment in the Public Works Department is to be made by Local Governments or Administrations to the Adjutant General, in order that their transfer to the Unattached List may be effected without delay.

3. His Excellency in Council is satisfied that the Lower Subordinate Establishment of the Department of Public Works may, in very many instances, be recruited from the Native Army (whose promotion would be expedited thereby) by such a transfer of Non-Commissioned Officers and Soldiers, and that a class of men would be obtained superior in many respects, especially in energy and habits of command and obedience, to the classes at present for the most part filling that grade in the Public Works Department. Such men, whilst quite equal to the present nominees in point of intelligence, would, irrespective of being of tried character, even on entering the Public Works Department, have generally served for such periods as would render dismissal in itself a serious punishment, and their good conduct would thus be guaranteed.

4. Want of knowledge of English, and of general qualifications for the Upper Subordinate Establishment, would be the sole obstacles to such men rising to that establishment.

5. The scale of pay for such men will be the same as that for persons not in the Military service of Government, as laid down in para. 3, Section I, Chapter I as modified by paragraph 10,

Chapter II, and in Chapter XV, Section III, paragraphs 3 and 4 of the Public Works Code. The qualifications required will be found detailed in the earlier paragraphs of Chapter II. (See scale of pay and extracts paragraphs 4 to 11 of Chapter II, annexed.) On joining the Public Works Department, the men will receive consolidated pay on the scale above referred to, and be at once transferred to the Unattached List. No further issue of uniform after leaving their Regiments will be made to them, nor will they be required to wear it.

6. The rules regulating remand to Corps, &c., will be the same as those applicable to European Military Subordinates. (See extract from Chapter XVI, Section III, Articles 1, 3, 4, 9, and 11—13, annexed.) When remanded to their Corps, they will be placed at the bottom of the list of their rank in the Regiment as supernumeraries; and, if Non-Commissioned Officers, they are liable to be reduced to the ranks, or to a lower grade, as the Commander-in-Chief may direct.

7. As it is not considered desirable to confer higher Military rank for service in the Department of Public Works on Native Non-Commissioned Officers or Soldiers who may be transferred to it under the provisions of this Order, these classes (who will have no claim to pension under Civil Rules) will be allowed to count their service both in the Army and in the Public Works Department for pensions on the following scale, which has been framed so as to secure to them, as far as possible, the pensions they would probably have been entitled to had they remained in their Regiments:—

| | | | |
|---|---|---|---|
| To men of 15 and under 20 years' service, as Sepoy ... ... | Rs. | 4 | a month. |
| To men of 20 and under 30 years' service, as Naick or Havildar ... ... | „ | 7 | „ |
| To men of 30 and under 36 years' service, as Jemadar ... ... ... | „ | 12 | „ |
| To men of 36 years' service, as Subadar .. | „ | 25 | „ |
| To men of 40 years' service and upwards with an unblemished character, if specially recommended ... ... | „ | 40 | „ |

No pension can be claimed until the applicant has both served 15 years and been pronounced by an Invaliding Committee unfit for further service; and it will be open to any one when invalided to take the pension of his actual Military rank, should it be higher than that to which he would be entitled by the above scale. After 40 years' service the pension of 25 Rupees a month can be claimed, although the individual may not be unfit for further service.

## SCALE OF PAY.

| Names of Appointments. | Salaries per Mensem, exclusive of Travelling Allowance. | |
|---|---|---|
| | If capable of keeping accounts in the English language. | If not capable of doing so.* |
| *Lower Subordinate Establishment.* | | |
| Sub-Overseer and Sub-Surveyor, 1st Class— | | |
| Deserving men above 10 years' departmental service ... | 60 | 55 |
| Ditto ditto 5 ditto ditto ... | 50 | 45 |
| All others ... ... .. ... ... .. | 40 | 35 |
| Sub-Overseer and Sub-Surveyor, 2nd Class— | | |
| Deserving men above 10 years' departmental service ... | 35 | 32 |
| Ditto ditto 5 ditto ditto ... | 30 | 27 |
| All others ... ... ... ... ... ... | 25 | 22 |
| Sub-Overseer, 3rd Class— | | |
| Deserving men above 10 years' departmental service ... | 25 | 23 |
| Ditto ditto 5 ditto ditto ... | 20 | 18 |
| All Others ... ... ... ... ... ... | 15 | 13 |

* See extracts below, Chap. II, Sec. I, para. 14.

### EXTRACTS FROM DEPARTMENT PUBLIC WORKS CODE.

Chap. XV, Sec. III, Paras. 3 and 4.

*Travelling Allowance.*

Lower Subordinate Establishment.

*Para.* 3.—Sub-Overseers and Sub-Surveyors are entitled to travelling allowances as follows:—

When on duty at fixed Head Quarters, but with occasion to travel frequently 10 miles or more in one day, or when marching on duty, unprovided with shelter, Rs. 7½ per mensem.

When on Field duties, that is, in the active inspection of a sub-division of roads, canals, or embankments, or when marching on duty, distances not exceeding 20 miles a day, and being unprovided with shelter, Rs. 15 per mensem.

For journeys of upwards of 20 miles a day, performed under sanction of the Executive Engineer or his Assistant, they shall be allowed one anna per mile; except for such portions of those journeys as may be performed by rail, when the allowance will be half an anna per mile.

Expenses which these allowances are to cover.

4. The travelling allowances granted in the last three paragraphs are to cover all expenses of travelling, including the cost of conveying and protecting personal baggage, as well as such public records, stationery,

books, and instruments as an Officer or Subordinate usually carries with him, without requiring any separate means of conveyance, or extra protection. But when any extra conveyance is necessary for public property, the *bonâ fide* expenses may be passed as a contingent charge at the Superintending Engineer's direction.

EXTRACT CHAPTER II, SECTION I.

*"Qualifications, Appointments, Promotions."*

Sub-Overseers, 3rd Class.

4. *Sub-Overseers of the 3rd Class* must be capable of supervising bricklaying, roofing, flooring, road-making, carpentry, and other work ordinarily done under departmental superintendence.

Appointment of ditto.

5. For the situation of a Head Artificer, or Sub-Overseer, 3rd Class, preference will be given to qualified men educated at a Government Institution, and to men already employed in the Department who may have been brought to the Chief Engineer's notice by Superintending Engineers as deserving of promotion. New appointments are to be considered probationary for one year, and no appointment will be permanently given unless to a fully qualified individual. It will be the duty of Superintending Engineers on their inspections to examine and report upon newly appointed subordinates of these grades.

Sub-Overseers, 2nd Class.

6. *Sub-Overseers of the 2nd Class* must, in addition to the acquirements expected of Sub-Overseers, 3rd Class, be able to lay down and construct an ordinary building from working drawings and specifications, to prepare simple drawings, and to frame corresponding estimates.

Sub-Overseers, 1st Class.

7. *Sub-Overseers of the 1st Class* must, in addition to all the above qualifications, be able to survey with the Chain and Compass, to take levels, and to plot their Surveys and Sections neatly.

Sub-Surveyors.

8. *Sub-Surveyors of the 2nd Class* must be able to survey with the Chain and Compass, to take levels, and to plot their Surveys and Sections neatly. *Sub-Surveyors of the 1st Class* must be able to make simple surveys with the Theodolite in addition to the above.

Examination and appointment of the above.

9. The qualifications of Sub-Overseers of the 1st and 2nd Classes and Sub-Surveyors will generally be ascertained from certificates issued from a Government College of Civil Engineering, but Superintending Engineers are empowered to authorize Executive Engineers to examine and report on candidates in special cases. It is expected that local Governments and Administrations will fill up vacancies occurring in the grades of Sub-Overseers and Sub-Surveyors as far as possible, by appointing qualified students from the Government Civil Engineering Colleges. Vacancies occurring during the year in this grade should therefore remain open until the available supply of qualified candidates has been ascertained by the annual examination at a Government College. Any vacancies which cannot be supplied from that source may then be filled up by appointments made on the recommendation of the Chief Engineer. These men are not required to serve first in the lower classes, and promotions among them will be made by the Local Administration, on the recommendation of the Chief Engineer. But they must enter each class in the lowest grade of that class, and must have served the specified time of five years in such grade before becoming eligible for promotion to a higher one.

Appointments to be on probation for first year.

10. Sub-Overseers and Sub-Surveyors will be on probation for the first year.

Knowledge of English.

11. A knowledge of English, and particularly of English figures and Arithmetic, is to be encouraged in the Lower Subordinates. The Table of Salaries (Chapter I) is framed on the supposition that they are so far proficient in English as to be able to keep accounts in that language. When this is not the case, the salaries will be less than those laid down in the Table by (5) five rupees in the case of each Sub-Overseer or Sub-Surveyor 1st Class, (3) three rupees in the case of each Sub-Overseer or Sub-Surveyor 2nd Class, and (2) two rupees in the case of each Sub-Overseer 3rd Class.

EXTRACT CHAPTER XVI, SECTION III.

*Non-Commissioned Officers and Soldiers.*

Application of the Articles of War.

Non-Commissioned Officers and Soldiers transferred to the Public Works Department are amenable to the Articles of War, in all matters affecting their character as Soldiers, including respectful bearing towards their Military superiors in the Department * * *

Pay, &c.

3. Non-Commissioned Officers and Soldiers employed in the Public Works Department will be allowed their full pay and batta as Infantry Non-Commissioned Officers(*a*) or Soldiers. * * * * * * *

Records to be brought with Soldiers joining the Department.

4. Non-Commissioned Officers and Soldiers appointed to the Department from Corps or from the Government Colleges should be furnished with Descriptive Rolls, Records of Service, and Last Pay Certificates, which they must deliver to the Executive Engineer of their Division on joining. Duplicates of these documents should be sent by Post to the Executive Engineer, together with an Extract from the Regimental Defaulter's Book for three years. Executive Engineers are required to call for these papers if not received in due time.

Discharges.

9. Any Non-Commissioned Officer or Soldier obtaining his discharge, or otherwise leaving the Military service, will not be allowed, as a matter of course, to remain in the Public Works Department. Permission to continue in the Department after discharge will only be given to men in whose favour positive and unexceptionable testimony to character is given, and their grade in the Department will have to be re-considered.

Remand to Corps.

11. Whenever an Executive Engineer may think that a Non-Commissioned Officer or Soldier should be removed for misconduct or incompetence, he will apply to the Superintending Engineer. The latter, after the fullest investigation in his power, will submit the evidence, his own opinion, and (in cases of alleged misconduct) the defence of the accused, to the Chief Engineer. The latter, if he

(*a*) Bombardiers of Artillery as Corporals of Infantry.

sees cause for proceeding with the case, will take the order of the Local Government, which will, according to its judgment, decide on the documents before it, or cause further investigation by a special agency, or apply to the Military Authorities for a Court Martial on the accused. For the special agency, the Local Government may either appoint a Departmental Court (consisting of three Officers of the Engineer Branch), or associate a Civil Officer with the Superintending Engineer.

Defence required.

12. Every recommendation for the remand of a Non-Commissioned Officer or Soldier to his Corps shall be accompanied by a detailed statement of evidence with the defence of the accused, or of such further investigation as is provided for in the preceding paragraph, including the opinions of the Officers appointed to conduct it.

Papers to be sent to the Corps to which a Soldier is remanded.

13. When a Non-Commissioned Officer or Soldier is remanded to his Corps, copies of the reports and proceedings connected with his removal must be sent to the local Commanding Officer of the Corps by the Executive Engineer; as also documents similar to those which should be received from the Corps with the Soldier—(See paragraph 4).

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*No.* 261 *of* 1865.—Second Class Sub-Assistant Surgeon Nobogopal Ghosal, attached to the Civil Station of Rajmehal, having been pronounced qualified for advancement, is, under the rules passed by Government in the Home Department, dated 6th January 1849, promoted to the 1st Class, with effect from the 7th instant.

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*No.* 262 *of* 1865.—The usual Annual Examination is to be held, as soon as practicable after the receipt of the Order, in each of the Stations of the Bengal Presidency to which Deputy Inspectors General of Hospitals are attached, for the purpose of filling up vacancies in the Military Class of the Medical College. The College Session commences on the 15th June.

2. All candidates will be required to possess a knowledge of the Hindoostanee language, sufficient to enable them to read and write common letters and petitions, and Hospital Registers of Sick, in the Devanagri or Persian character, and to converse with a Sepoy in the Hindoostanee language.

3. Although a knowledge of English will not be insisted on in all cases, a preference in selection is to be given to those candidates who possess a competent knowledge of English, in addition to Hindoostanee.

4. The preference in selection, attainments being equal, will also be given to those who have already been attached to or served in Civil or Regimental Hospitals. Beyond this, preference will not be given to men of any particular class; but respectable young men, especially those educated in the Schools of Behar, the North-Western Provinces, and the Punjab, are encouraged to offer themselves, bringing Certificates of character and acquirements from the Inspectors or Head Masters of the Schools.

5. Those holding such recommendations from the School Authorities, and Certificates of physical fitness from the nearest Medical Officers, will not be required to appear before the Committees. As, however, the number who can be admitted to the College from each Division is very limited, it is necessary that the School Authorities should send the papers of all candidates, as soon as possible after the promulgation of this Order, to the Deputy Inspector General of the Division, who, the recommendations being equal, will select, in preference, those whose nominations are earliest received.

6. The Examination is equally open to the sons of Soldiers and of persons engaged in Civil occupations.

7. The candidates must be between the ages of fifteen and twenty years.

8. No candidate will be allowed to present himself for examination who is physically unfit for the duties of a Soldier, and who cannot produce a written Testimonial of his conduct and character. The strictest care and attention are to be exercised in examining the Credentials of all candidates, who will, in addition, be required to bring regular Descriptive Rolls, in order that they may be identified.

9. The Deputy Inspector General of Hospitals is to prepare a General Roll (in the Form hereafter given) of all candidates, to be laid before the Committee, the Qualification Columns being left blank for the Committee to fill up.

10. Committees for the examination of candidates will be convened by the Officer Commanding the Station, upon the requisition of the Deputy Inspector General of Hospitals, and will consist of two Medical Officers and an Interpreter.

11. These examinations will in future be final as regards the admission of the candidates into the Medical College, no subsequent examination in the College of Fort William being required.

12. Each passed candidate is to be furnished by the Deputy Inspector General of Hospitals with a Descriptive Roll in the subjoined Form, which he is to present to the Principal of the College, and which will be his warrant for admission as a student:—

*Descriptive Roll of a Candidate for Examination for a Studentship in the Military Class of the Medical College.*

(Here insert Station and Date.)

| Name. | Age. | Caste. | Father's Name. | City, Town, or Village. | District or Pergunnah. | Character from Testimonials. | Hindoostanee Qualifications | English Qualifications. |
|---|---|---|---|---|---|---|---|---|
| | | Mussulman or Hindoo. | ... | ... | ... | Good. | Persian or Devanagri<br>Superior ...<br>Good ...<br>Fair ...<br>As the case may be. | None.<br>Superior.<br>Good.<br>Fair.<br>As the case may be. |

(Signed) A. B., *Surgeon, President.*
" C. D., *Surgeon, Member.*
" E. F., *Lieut. and Interpreter.*
" G. H., *Deputy Inspector General of Hospitals, Division or Circle.*

13. All pupils must, as a condition of their appointment, reside within the College premises at all times, and never be absent from morning and evening muster without special leave.

14. All students of the Military Class, who, on leaving College, after having passed through their studies with credit, shall be certified to possess a competent knowledge of the English language, including Orthography, the meaning of words, writing from Dictation, and Simple Arithmetic as far as the Rule of Three, will be allowed, in addition to his pay, Rs. (5) five per mensem.

15. All students of the Military Class are amenable to the Articles of War, and regularly enlisted as Soldiers.

16. Successful candidates will be provided with a 3rd Class free passage by Rail or by Steamer, as the case may be.

17. Military Class students, while at the College, will receive a stipend or allowance of Rs. (6) six per mensem.

18. No deduction will be made for Uniform.

19. The pay of Military Class Native Doctors, on appointment to the service, is fixed at 20 Rupees a month in Garrison or at a Civil Station, and 25 Rupees a month in the Field, of which sums 5 Rupees are to be considered as Batta, and deducted when on leave of absence from Corps and Civil Stations.

20. Upon their admission they are to enter into an engagement to serve the Government as Native Doctors, as vacancies may occur, for a period of not less than seven years from the time of their leaving the Medical College in that capacity, unless prevented serving that period by physical inability proved before a Medical Committee and certified accordingly. After a service of seven years, they may demand their discharge *in time of peace.*

21. In the event of their continuing to serve, their allowances will, after seven years, and upon undergoing a successful examination, be advanced to Rs. 25 in Garrison or at a Civil Station, and Rs. 30 in the Field.

22. A Native Doctor, who, from wounds or injuries received on service, shall become no longer fit to serve, will be entitled, at any period less than fifteen years, to an Invalid Pension of Rs. 12 per mensem; after fifteen years, to one-half of his Field Pay if in the Military, and of his Garrison Pay if in the Civil, Branch of the Service; after twenty-two years, to the whole of his pay.

23. If invalided under ordinary circumstances of inability to perform his duties, a Native Doctor will be entitled, at the expiration of fifteen years, to a Pension of Rs. 10 per mensem, and after twenty-two years, to one-half of his Field or Garrison Pay, agreeably to the Branch of the Service in which he is employed.

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*The 15th March 1865.*

*No.* 263 *of* 1865.—With reference to Government General Order No. 165 of the 2nd March 1863, the name of the under-mentioned Officer who retired from the service under the Annuity Scheme of 1861, is removed from the List of Regimental Lieutenant Colonels of Bengal Cavalry :—

| Rank and Name. | Remarks. |
|---|---|
| Lieutenant Colonel (Major General, Retired List) Robert Augustus Master, C. B. | Deceased. |

*No.* 264 *of* 1865.—The under-mentioned Soldier is admitted to pension as specified opposite to his name :—

| | |
|---|---|
| Private George DeCruize, of the Lahore Light Horse. | Rs. 14-14-6 per mensem, payable in India. |

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*No.* 265 *of* 1865.—Lieutenant Colonel E. J. Simpson, of the Bengal Infantry, Officiating Deputy Commissary General, Central Circle, Lucknow, is allowed leave of absence from the 10th to the 24th April 1865, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe, under the new Regulations.

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*No.* 266 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain Richard Manuel Sewell, of the Bengal Staff Corps, District Superintendent of Police, Punjab. | For 20 months. |
| Lieutenant William Henry Collins, of the Royal Engineers, 2nd Assistant in the Great Trigonometrical Survey of India. | For 20 months, under the new Regulations. |

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*No.* 267 *of* 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 368 of the 23rd November 1864, and the Royal Warrant therein referred to, are published for general information, and the Governments of Fort St. George and Bombay, and His Excellency the Commander-in-Chief in India, are requested to give effect to the instructions conveyed in the 4th para. of the letter, by forwarding to this Department, for transmission to Her Majesty's Government, Returns of the Veterinary Surgeons who may be desirous of entering Her Majesty's general service on the conditions laid down :—

MILITARY. INDIA OFFICE,

No. 368. *London, 23rd November* 1864.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have been in communication with the Secretary of State for War on the questions raised in the letters of the dates noted in the margin, regarding the position of the Veterinary Surgeons of the Indian Service who may declare for general service in Her Majesty's Army.

15th April 1864, No. 167.
30th August „ „ 311.
19th Sept. „ „ 332.
5th May „ „ 10 } Secy.
31st „ „ „ 31 } Secy.
22nd June „ „ 45 } Secy.

2. I stated that it appeared to me that such of these Veterinary Surgeons as might volunteer for general service would become an integral part of Her Majesty's Army, and hold the same position as the Veterinary Surgeons in that Army; that they would be considered to have terminated all connection with their former service; and that they would be allowed to reckon their past service towards pay, promotion, and half-pay on retirement under the provisions of the Royal Warrant of the 1st July 1859.

3. The Secretary of State for War has expressed his concurrence in these views.

4. This decision should now be communicated for the information of the Veterinary Surgeons of the Local Forces at the three Presidencies, and a return of the Veterinary Surgeons desirous, on such conditions, to enter Her Majesty's general service, should be transmitted to me for communication to the Secretary of State for War.

5. The connection with the respective Military Funds of such of the Veterinary Surgeons of the Local Forces as may volunteer for, and be accepted for, Her Majesty's general service, will depend upon the regulations of the Funds of their respective Presidencies.

I have, &c.,
(Sd.) C. WOOD.

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No. 440.

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8

*VICTORIA* R.

Whereas it hath been represented to Us that it is expedient to raise the position and rank of the Veterinary Surgeons of Our Army, and to increase the pay and half-pay of the Officers of that Service; Our will and pleasure is, that from and after the date of this Our Royal Warrant, the following Rules shall be established for the admission, promotion, and retirement, and for the pay, half-pay, relative rank, and allowances of the Veterinary Surgeons of Our Army, and that by these Rules Our Commander-in-Chief shall be governed in recommending Officers for admission, promotion, and retirement.

1. The grades of Veterinary Surgeons in Our Army shall be three in number, viz. :—

1. Staff Veterinary Surgeon.
2. Veterinary Surgeon of the First Class.
3. Veterinary Surgeon.

2. No candidate shall be admitted into the Veterinary Department of the Army until he shall have satisfactorily passed an examination before a Board of Military Veterinary Surgeons.

3. No Veterinary Surgeon shall be eligible for promotion until he shall have passed such examination as Our Principal Secretary of State for War may require, and shall have served on full pay with the Commission of Veterinary Surgeon for five years.

4. A Veterinary Surgeon of the First Class must have served 15 years in the Army with a Commission on full pay before he will be eligible for promotion to the rank of Staff Veterinary Surgeon.

5. In cases, however, of emergency, or when the good of the Service renders such alteration necessary, it shall be competent for Our Secretary of State for War to shorten the several periods of service above-mentioned in such manner as he shall deem fit and expedient.

6. Promotion from one rank to another shall not necessarily be given by seniority, but by selection for professional ability and meritorious conduct; such selection to be made by Our Principal Veterinary Surgeon; and the ground of such selection shall be stated to Us in writing, and recorded in the Office of Our Commander-in-Chief, together with the recommendation of the Principal Veterinary Surgeon.

7. The rates of pay of the Veterinary Officers of Our Army shall be in accordance with the following schedule:—

| | Service on Full Pay. | | | | | |
|---|---|---|---|---|---|---|
| | After 25 years. | After 20 years. | After 15 years. | After 10 years. | After 5 years. | On appointment. |
| Staff Veterinary Surgeons ... ... | 23*s*. | 22*s*. | 21*s*. | ... | ... | ... |
| Veterinary Surgeons, 1st Class ... | 20*s*. | 17*s*. | 15*s*. 6*d*. | 14*s*. 6*d*. | 12*s*. 6*d*. | ... |
| Veterinary Surgeons ... ... | 14*s*. | 14*s*. | 14*s*. | 13*s*. | 11*s*. 6*d*. | 10*s*. |
| Veterinary Surgeons who entered Our service prior to the date of this Warrant... | 17*s*. 6*d*. | 15*s*. | 14*s*. | 13*s*. | 11*s*. 6*d*. | 10*s*. |

8. It is to be clearly understood that all increase of pay from length of service is to be granted subject to a Veterinary Surgeon having discharged his duties with zeal and ability.

9. After the date of this Our Warrant, every Veterinary Officer placed on half-pay by reduction of establishment, or on the report of a Medical Board, in consequence of being incapacitated by reason of ill-health, caused by wounds or brought on by the discharge of his duties, shall be allowed the half-pay which his period of full-pay service may entitle him to, according to the following schedule :—

| | After 25 years. | After 20 years. | After 15 years. | After 10 years. | After 5 years. | After 3 years. | Under 3 years. |
|---|---|---|---|---|---|---|---|
| Staff Veterinary Surgeon ... | 15*s.* | 14*s.* | The half-pay of his former rank. | | | | |
| Veterinary Surgeon, 1st Class ... | 13*s.* 6*d.* | 11*s.* 6*d.* | 10*s.* 6*d.* | 9*s.* 6*d.* | The half pay of his former rank. | | |
| Veterinary Surgeon .. ... | ... | ... | 9*s.* 6*d.* | 8*s.* 6*d.* | 7*s.* | 4*s.* | Temporary half-pay at at 4*s.* a day, for a period equal to that for which the officer has served on full pay. |
| Veterinary Surgeons who entered Our service prior to the date of this Warrant ... ... | 10*s.* | 9*s.* 6*d.* | 9*s.* 6*d.* | 8*s.* 6*d.* | 7*s.* | 4*s.* | |

10. With a view to maintain the efficiency of the Service, all Officers of the rank of Veterinary Surgeons and Veterinary Surgeons of the First Class shall be placed on the Retired List when they shall have attained the age of 55 years ; and all Staff Veterinary Surgeons when they shall have attained the age of 65 years.

11. Officers thus superannuated shall be entitled to the rate of half-pay, stated in the preceding schedule.

12. Every Veterinary Officer who shall have served upon full pay for 25 years and upwards shall have the right to retire upon half-pay, at the rate of two-thirds of the daily pay he was in receipt of when thus retiring, provided he shall have served three years in the rank from which he retires, or shall have served in any rank for ten years in the Colonies, or five years with an army in the field. But if he shall not have complied with any one of these conditions, he shall be entitled only to half-pay at the rate of two-thirds of the daily pay he was in receipt of before his last promotion.

13. Every Veterinary Officer thus claiming to retire must give six months' notice to the head of his Department of his intention to claim this right, prior to his being allowed to retire ; and no Veterinary Officer shall be entitled to give such notice after he shall be under orders to proceed to any foreign station, until he shall have served at such station for one month.

14. If a Veterinary Officer be placed on half-pay from any other cause than those hereinbefore mentioned, he shall only be allowed a temporary rate of half-pay, not exceeding the rates stated in Clause 9 for such period and at such rate as shall be assigned to him by Our Secretary of State for War, on a consideration of the length and character of the services rendered by such Veterinary Officer.

15. The relative rank of the Veterinary Officers of Our Army shall be as follows :—

Veterinary Surgeon, on appointment, as Subaltern.

Veterinary Surgeon of the First Class, on promotion, as Captain.

Staff Veterinary Surgeon, on promotion, as Major, but junior of that rank.

16. Such relative rank shall carry with it all precedence and advantages attaching to the rank with which it corresponds (except as regards the Presidency of Courts Martial, and of all Military Courts, Committees, and Boards of Inquiry, where Our will and pleasure is, that the senior combatant Officer be always President, and except, further, any military command whatever), and shall regulate the choice of quarters, rates of lodging money, field allowances, forage, servants, fuel, and light, or allowances in their stead, detention and prize money. But when a Veterinary Officer is serving with a regiment, corps, or detachment, the Officer commanding, though he be junior in rank to such Veterinary Officer, shall be entitled to a preference in the choice of quarters.

17. Veterinary Officers shall be entitled to all the allowances granted by Our Warrant of 13th July 1857, on account of wounds and injuries received in action, as combatant Officers holding the same relative ranks.

18. Their families shall, in like manner, be entitled to all the allowances granted by Our Warrant of 15th June 1855, to the families of combatant Officers holding the same relative ranks.

19. Veterinary Officers shall be held entitled to the same honors as other Officers of Our Army, of equal relative rank. This does not, however, extend to the compliments to be paid by garrison or regimental guards, as laid down in the Regulations of our Army.

Given at Our Court of St. James this first day of July 1859, in the twenty-third Year of Our Reign.

*By Her Majesty's Command,*

SIDNEY HERBERT.

*No.* 268 *of* 1865.—Colonel Richard Strachey, of the Royal Engineers, Secretary to the Government of India, in the Public Works Department, is permitted to proceed to Europe on furlough under the provisions of para. 39 of G. G. O. No. 332 of 1861.

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*No.* 269 *of* 1865.—His Excellency the Governor General in Council is pleased to publish, for general information, the following Military letter from the Right Hon'ble the Secretary of State for India, No. 31, dated 10th ultimo :—

MILITARY. INDIA OFFICE,

No. 31. *London, 10th February* 1865.

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—Her Majesty has been pleased to approve of the following appointments :—

Lieutenant General Sir William R. Mansfield, K. C. B., Commanding the Troops in the Bombay Presidency, to be Commander-in-Chief of the Forces in the East Indies, with the local rank of General, in succession to General Sir Hugh Rose, G. C. B., whose term of service is about to expire.

Major General Sir Robert Napier, K. C. B., to be placed on the Staff of the Army in the East Indies as a Lieutenant General (with local rank), with a view to his being appointed to the Command of the Troops in the Bombay Presidency, in succession to General Sir William Mansfield.

I have, &c.,

(Sd.) C. WOOD.

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*No.* 270 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment :—

Colonel H. F. Dunsford, C. B., of the Bengal Infantry, Commandant of the 28th (Punjab) Regiment Native Infantry, to the Brigade Staff of the Army temporarily, with the rank of Brigadier General, during the period Brigadier General Tombs may be employed with the Dooar Field Force, or until further orders.

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*The* 16*th March* 1865.

*No.* 271 *of* 1865.—With reference to the Notifications issued by the Government of Bengal, dated 4th and 6th instant, the services of the under-mentioned Officers are placed at the disposal of His Excellency the Commander-in-Chief :—

Lieutenant J. Johnstone, of the late 68th Native Infantry, Assistant Superintendent of Police, Durrung, (on leave in Europe).

Assistant Surgeon J. Picthall, M. D., Officiating Civil Surgeon of Bhaugulpore.

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*No.* 272 *of* 1865.—The under-mentioned Non-Commissioned Officer is admitted to pension as specified opposite to his name :—

| | |
|---|---|
| Sergeant Benjamin Charlesworth, of the Infantry Company of the European Invalid Battalion. | 2*s.* (two shillings) per diem, payable in Europe. |

*No.* 273 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Captain the Hon'ble William Murray Fraser, of the Bengal Staff Corps, District Superintendent of Police, N. W. Provinces. | For 20 months. |

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*No.* 274 *of* 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an out-Pensioner of Chelsea Hospital, in accordance with the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of his pension :—

Sergeant John Fitzgerald, of the Ordnance Department, Supernumerary, A. Battery 22nd Brigade Royal Artillery.

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*No.* 275 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Major James Sebastian Rawlins, of the Bengal Staff Corps, 2nd in Command, and Wing Officer 1st Goorkha Regiment. | For 20 months. |
| Lieutenant Charles Key, of the General List, Infantry | For 20 months, under the new Regulations. |

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| | |
|---|---|
| *No.* 276 *of* 1865.—Subadar Major Shaik Hyder, of the 32nd Regiment Madras Native Infantry, is admitted to the 2nd Class of the "Order of British India," with the title of "Bahadoor." | From the 20th February 1865, in succession to Subadar Major Rungiah "Bahadoor," deceased. |

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*No.* 277 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Assistant Surgeon Lachlan Hector John Maclean, of the Medical Department. | For 3 years, under the old Regulations. |

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*The* 17*th March* 1865.

*No.* 278 *of* 1865.—The admission to the Bengal Staff Corps of Ensign G. T. Maitland, of Her Majesty's 42nd Foot, Assistant Engineer, Benares Division, Department of Public Works, announced in Government General Order No. 249 of the 10th March 1865, is to be held to have effect from the 9th April 1864.

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*No.* 279 *of* 1865.—The under-mentioned Officers, admitted to the Bengal Staff Corps by Government General Orders noted in the margin, will rank as Lieutenant in that Corps, under the operation of paragraph 84 of Government General Order No. 332 of the 10th April 1861, with effect from the dates specified opposite

No. 51, dated 12th January 1865.
No. 248, dated 10th March 1865.

to their respective names, subject to Her Majesty's approval :—

| | |
|---|---|
| Ensign Edward G. Lillingston, of Her Majesty's 71st Foot, Assistant Commissioner of Lohardugga. | 17th November 1863. |
| Ensign George T. Maitland, of Her Majesty's 42nd Foot, Assistant Engineer, Benares Division, Department of Public Works. | 9th April 1864. |

The admission of Ensign Lillingston to the Staff Corps in Government General Order No. 51 of 12th January 1865 is to be held to have been in the rank of Ensign instead of that of Lieutenant.

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*No.* 280 *of* 1865.—Major J. E. Thomson, of the Bengal Staff Corps, Sub-Assistant Commissary General, is permitted, at his own request, to resign his appointment in the Army Commissariat Department, from the date of his departure on furlough to Europe.

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*No.* 281 *of* 1865.- The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs :—

| | |
|---|---|
| Major James Edward Thomson, of the Bengal Staff Corps. | For 2 years. |

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*No.* 282 *of* 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, Sub-Conductor B. Robinson, of the Department of Public Works, is admitted to the superior pension of a Sergeant Major, viz., 2*s.* 6*d.* (two shillings and six pence) per diem, instead of that assigned to him in Government General Order No. 243 of the 19th March 1864.

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No. 283 of 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, the under-mentioned Soldiers are admitted to pension as a special case, as specified opposite to their respective names :—

| | |
|---|---|
| Gunner George Burgess, of No. 1 Battery, Bengal Artillery.<br>Gunner Thomas Greene, of No. 1 Battery, Bengal Artillery.<br>Gunner James McGregor, of No. 1 Battery, Bengal Artillery. | 1*s.* (one shilling) each per diem, payable in Europe. |

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*No.* 284 *of* 1865.—Assistant Surgeon Augustin FitzGerald, of the Medical Department, is permitted to proceed to the Neilgherry Hills on medical certificate, and to be absent from Bengal on that account for eight months, under the new Regulations.

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*No.* 285 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on furlough on private affairs.

| | |
|---|---|
| Lieutenant William Gordon Chalmers, of the Bengal Staff Corps, Wing Officer, 23rd (Punjab) Regiment Native Infantry. | For two years. |

*No.* 286 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Ensign James Baxter, (Unattached), Riding Master, Lahore Light Horse. | For 20 months, under the new Regulations. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

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## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 87.

*Fort William, the* 13*th March* 1865.

NOTIFICATIONS.

Lieutenant C. H. Luard, R. E., Assistant Secretary to the Government of India, in the Public Works Department, is appointed to act as Deputy Consulting Engineer, Railway Department, Bengal, vice Captain R. de Bourbel, R. E., temporarily attached to the Bhootan Field Force.

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No. 88.

*The* 15*th March* 1865.

Mr. H. Rigg, Assistant Engineer, 2nd Grade, Mysore, has been granted one month's privilege leave from the date on which he might avail himself of it.

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No. 89.

Major J. F. Tennant, R. E., Executive Engineer, Arracan Division, British Burmah, was granted one month's privilege leave, with effect from the 27th January 1865.

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No. 90.

Lieutenant L. Conway-Gordon, R. E., Assistant Engineer, 2nd Grade, is transferred from the Punjab to the North-Western Provinces, for employment as Assistant Principal in the Thomason College.

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No. 91.

*The* 17*th March* 1865.

Sergeant J. Keenan, Madras Sappers and Miners, is re-appointed to the Public Works Department as an Overseer of the 2nd Grade and posted to Mysore, with effect from the 14th January 1865.

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No. 92.

Mr. F. Martin, C. E., Principal, Civil Engineering College, Calcutta, is appointed to the Public Works Department, Bengal, as an Executive Engineer of the 2nd Grade, with effect from the 25th November 1864. He assumed charge of the Lower Assam Division on the 28th January 1865.

Lieutenant G. S. Hills, R. E., Assistant Principal, Civil Engineering College, Calcutta, is temporarily appointed to the Public Works Department, Bengal, as an Executive Engineer of the 4th Grade, with effect from the 8th November 1864. He assumed charge of the Shillong Division on the 18th December 1864.

No. 93.

Mr. W. W. Culcheth, Assistant Engineer, 1st Grade, and Mr. J. Sheldon, Assistant Engineer, 2nd Grade, North-Western Provinces, passed the examination in Hindoostanee on the 26th January 1865.

No. 94.

Lieutenant Colonel W. Maxwell, R. A., assumed charge of the office of Chief Engineer and Secretary to the Chief Commissioner, Central Provinces, Public Works Department, on the forenoon of the 6th March 1865.

No. 59.

Mr. R. C. McKennie, Assistant Engineer, 2nd Grade, is transferred from the Bangalore to the Nuggur Division of Public Works, and Mr. H. Rigg, Assistant Engineer, 2nd Grade, from the latter to the former Division.

E. C. S. WILLIAMS, *Captain*, R. E.
*Under Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTICE.

The undersigned having arranged with his creditors, has, with the permission of the Court, withdrawn his petition of Insolvency.

WM. C. STEWART.

CALCUTTA,
*14th March* 1865.

### NOTICE.

Mr. W. C. Stewart having obtained an order of the Court for the withdrawal of his petition of Insolvency I have no further claim against his Estate.

JOHN COCHRANE,
*Official Assignee.*

CALCUTTA,
*The 11th March* 1865.

### LOST OR STOLEN.

Lost or stolen at Lucknow during the mutiny,

A Government Paper No. 164 of the 3½ per cent. loan of 1853-54, for Rupees 600, the property of the undersigned, which has been stopped at the Calcutta Treasury.

Notice is hereby given that the undersigned has not endorsed or transferred it.

LUCKNOW,
*1st March* 1865.

SOLEMAN MIRZAH,
*alias* SAIFOOD DOWLAH.

Government Promissory Note No. 333 of 23889 of 1859-60, for Rupees 1,000, at 5½ per cent., belonging to me, has been destroyed by acid.

RAMCOOMAR CHATTERJEE,
*Head Asst., Barrackpore Exe. Commt. Office.*

BARRACKPORE,
*The 6th March* 1865.

### COMMISSARIAT NOTIFICATION.

I. Under instructions from Government, the Tannery at Hoonsoor, near Mysore, with all fixtures, is to be disposed of, and notice is hereby given that tenders for the same will be received by the Deputy Commissary General at his Office at Madras, up to 12 o'clock noon of Tuesday, the 21st March 1865.

II. The Tannery stands in an enclosed yard about 626 feet long by 173 feet broad, and is situated on the "Lutchmen Treert" River, has an ample supply of water, and comprises—

"Bark and Raw Hide store-rooms,
"Lime and Bark Pits,
"Upper-storied Currier's shop,
"Buff Mill,
"Work shop,
"Store Godowns for finished goods,"

with all the other requisite buildings for a business capable of turning out 2,000 Hides a month in the best style.

III. The Tannery will be made over to the successful competitor on the 1st of July 1865, on his complying with conditions hereinafter mentioned.

IV. There is a large quantity of stock raw, and in process of tanning, on hand, which the successful competitor for the Tannery will have the option of taking at a valuation, composed of Australian, Cape, and Country Bullock, Buffaloe, Sheep, and Goat Hides.

V. One-third of the price to be paid down in cash on the acceptance of the successful tenders being declared, and the balance on or before the 1st July 1865.

VI. Should the successful competitor for the Tannery take the stock at a valuation, transfer of the whole property can be made at once on payment of balance of price.

VII. Failing the due fulfilment of this engagement, the purchaser will forfeit the aforesaid third of the purchase money.

VIII. Any further information required can be obtained on application at the Commissary General's Office, or to the Deputy Assistant Commissary General at Hoonsoor, who will show the Tannery.

IX. Intending purchasers must satisfy themselves of the nature and description of the Buildings and Articles. This Department will not be answerable for any errors of description.

By order,

E. E. MILLER, *Lieut. Colonel,*
*Deputy Commissary General.*

COMMY. GENERAL'S OFFICE,
*Madras, 21st January* 1865.

### BENGAL OFFICIAL ARMY LIST.

The *Bengal Official Quarterly Army List*, No. XI, corrected in the office of the Adjutant General up to the 1st of January 1865, is now ready. Price five Rupees *in advance*, and eight annas extra if sent by post. Apply to

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## FOR SALE,

A COLLECTION of TREATIES, ENGAGEMENTS, and SUNNUDS, relating to India and neighbouring countries, compiled by C. U. Aitchison, B. C. S., Under Secretary to the Government of India in the Foreign Department. Price, Five Rupees per volume.

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VOLUME VI.—Containing Treaties, &c., relating to the States within the Bombay Presidency.

## NOTICE.

The attention of all Treasury Officers drawing Bills on the General Treasury, Bank of Bengal, is hereby called to the necessity of despatching the advices of Bills drawn by them on the day of issue. Much inconvenience is frequently experienced owing to delay on the part of Officers in charge of Treasuries in forwarding these Letters of Advices.

R. P. HARRISON,
*Acctt. Genl. to the Govt. of India.*

FORT WILLIAM,
*The 24th February* 1865.

## PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

*By order of the Mortgagees,*

The well-known Indigo Factories called the Allumchund Concern, at Allahabad, with valuable Talook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

*Just Published*

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No. 11.

SUPPLEMENT TO

# The Gazette of India.

CALCUTTA, SATURDAY, MARCH 25, 1865.

## OFFICIAL PAPERS.

*A* SUPPLEMENT *to the* GAZETTE OF INDIA *will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.*

*Non-Subscribers to the* GAZETTE *may receive the* SUPPLEMENT *separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.*

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### *Government of India.*

**Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., cap. 67.**

The Council met at Government House on Monday, the 20th March 1865.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

The Hon'ble G. Noble Taylor.

The Hon'ble H. L. Anderson.

The Hon'ble J. N. Bullen.

The Hon'ble Mahárájá Vijayaráma Gajapati, Rájá Bahádur of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádur.

The Hon'ble R. N. Cust.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádur, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

CIVIL COURTS' (CENTRAL PROVINCES) BILL.

The Hon'ble MR. HARINGTON presented the Report of the Select Committee on the Bill to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

PARSEES' MARRIAGE AND DIVORCE BILL.

The Hon'ble MR ANDERSON presented the Report of the Select Committee on the Bill to define and amend the law relating to Marriage and Divorce among the Parsees.

HIGH COURTS' CRIMINAL JURISDICTION BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to amend the Procedure of the High Courts of Judicature in the exercise of their original Criminal jurisdiction and to provide for the exercise of such jurisdiction at places other than their usual place of sitting, be taken into consideration. He said—"Sir, the Select Committee, in reporting on this Bill, accompanied its report with a very full explanation of the amendments which it proposed to introduce; and the Bill has now been before the public for rather more than a month. During that period almost no criticisms on it have been received, and apart from the point on which public attention has chiefly fastened—the abolition of the Grand Jury—I am inclined to say that the measure has been received with favour. The few remarks which I intend to make in placing my motion before the Council will be addressed to observations—for I can hardly call them objections—in the frequent conversations which I have naturally had on the subject of the Bill. The first relates to the institution of Special Juries in criminal cases. This improvement has long been called for by the best English Jurists, but it is scarcely an innovation. For Special Juries have always been allowed in the trials of misdemeanors. Why they are denied in charges of felony, I never could understand, and probably the reasons are entirely historical. But the existing system does not work well even in England, for I am informed that in very difficult cases, when the attention of the Jury has to be fixed upon a long and intricate issue of evidence, a process has to be resorted to which may be called,

though in a very innocent sense, packing the Jury, that is to say, packing it for the purpose of obtaining Jurors adequate to the enquiry. A notable example of that occurred, I am told, in a great English *cause celèbre*, the trial of William Palmer, of Rugeley, for murder by poisoning. The particular point to which I wish to direct the Council's attention is an incident of the substitution of one system for another. We place all present Grand Jurors on the Special Jury list, but we provide that no addition shall be made to the list until by death or loss of qualification the number of Special Jurors has diminished to 200. This maximum we prescribe in order that the Special Jury list may not produce the pernicious effects attributed, I believe with justice, to the Grand Jury list in Calcutta, and certainly complained of bitterly by the communities of the two other Presidency Towns —the undue exhaustion of the lower list by the higher. Now there are certain gentlemen at present in Calcutta who, by the acquisition of qualification, would probably be able to get very soon on the Grand Jury list, and there are others who, arriving in India before the Special Jury list has diminished to 200, and possessing the qualification of education and property, may, nevertheless, be unable for a time to get their names enrolled on it. Well, Sir, it might be enough to say that some inconveniences must attend every transition from one system to another, and that this is one of those inconveniences. But I will go on to express my fervent hope that when this measure comes into full operation, we shall not find people thinking themselves degraded, as I fear they do at present, by serving on Common Juries. I trust that when any gentleman of education and property happens to be excluded from the Special Jury list, he will not say, as at present, that he suffers degradation and humiliation, but only that there are others in Calcutta as educated and opulent as he is, and that there is not room for all on the Special Jury list.

Sir, it may be perhaps asked,—I don't mean that the objection has actually been made—why, if you think so highly of Special Juries in the Presidency Towns, do you not extend them to the Mofussil? The answer might be, that we make the best use we can of the material in the Mofussil. But a still more satisfactory reply is possible, namely, that our Juries in the Mofussil will be more nearly akin to Special than to Common Juries. Our Jury material in the Mofussil is scanty, but it is exceedingly good. The non-official class there corresponds, I am told, more nearly with the class from which Grand Juries in the Presidency Towns are taken, and the remainder of the European element of the Juries will consist of those military men whose exemption from service is partially repealed by this Bill. Sir, I think that military men will make excellent Jurors, and I consider that the public gratitude is due to His Excellency the Commander-in-Chief for the liberality with which he has opposed himself to many natural military prepossessions, and has declared himself in favour of this part of the measure. Military men cannot be charged with interested deference to the Civil Government, but they can never be without sympathy for justice and order. These are the exact qualifications one would wish for in a juror, and I do not think that these new duties will be felt by Officers a distasteful burthen on them. I should imagine that there are many hours in the day which hang heavily on the hands of an active-minded Officer in an Indian cantonment, and I should imagine it far from disagreeable to him to give up a portion of his time to one of the most impressive, most elevating, and most instructive of employments—participation in a criminal trial conducted by a trained Judge, aided by skilful Counsel, under the rules of evidence. The experience thus gained would not, I should suppose, be wholly without use to military men in those strictly judicial functions which sometimes devolve upon them.

The next point, Sir, which requires notice may have escaped attention from its being enveloped in technical phraseology. We continue the right of peremptory challenge in the Presidency Towns, but it is not given in the Mofussil by the Code of Criminal Procedure, nor by this Bill. The reason is, that, though we do not give the right, we give the result of exercising the right. For the Bill declares that the majority of a Jury which is to try European British subjects shall consist of Europeans or Americans only. Now this privilege of peremptory challenge, which is a very questionable one, is, I think, only justifiably used in the Presidency Towns when it is employed to eliminate from the Jury persons who may be supposed to have a vague and undefined dislike to the prisoner; and I think it is carried to the furthest allowable point when it secures for the prisoner a majority of persons of the same race with himself. In fact, the old English writers on law, who do not often offer a justification for the doctrines they lay down, justify the right of peremptory challenge, on the plea that if it did not exist, certain privileges which particular persons are entitled to by general understanding would be attainable with difficulty, as, for example, the privilege of a foreigner to be tried by a Jury *de medietate linguæ*.

Next, Sir, as to the composition of the Jury. My Hon'ble friend Mr. Bullen has not embodied in an amendment the objection which he felt to the proposal of the Select Committee, or else I should have deferred what I have to say on the subject. I am now bound to state that, if the issue had simply been between a Jury deciding by unanimity and a Jury deciding by majority, I must have voted for an unanimous Jury. I hold strongly with the author of the most philosophical of the recent treatises on English Criminal Law—Mr Fitzjames Stephen—that, rather than create a Jury deciding by majority, it is always better to strike off the minority altogether. The gist of the institution is the concurrence of the Jurors. All systems of jurisprudence require some conditions to be satisfied before justice is done on the accused. Some will be satisfied with nothing less than a confession of guilt—a confession often extorted by what is little less than moral torture. Others demand that certain irresistible presumptions shall arise upon the evidence. Others again require that unity of proof shall be made up out of what are called fractional proofs. But the English law differs from the rest in laying down simply that, when a certain number of men of average intelligence are so convinced by the evidence as to be of one mind upon the prisoner's guilt, the arm of the law shall move. Everything, therefore, turns upon concurrence; and if by requiring only a majority, you dispense with the concurrence of the minority, you may just as well dispense with the minority itself. But the Jury recommended by the Select Committee is not open to the reproach

of violating this principle. It is a Jury deciding by nine against three, but there is an alternative concurrence required instead of the concurrence of the three, namely, the concurrence of the Judge. The concurrence of the Judge counts as equal to the concurrence of the three last Jurors. Our Jury is therefore in harmony with Mr. Stephen's canon, and I think we gain a great advantage in retaining the almost consecrated number of twelve.

Next, Sir, as to the expedient by which we propose to replace the functions of the Grand Jury, all I claim for it is that it is the best of the substitute which can be found. I am not going to attack the Grand Jury to-day. I have little to add to, and nothing to retract from, the arguments which I used against it on a former occasion; and I propose this morning to leave the discussion of its character to others. But I freely admit that, though I do not think the Grand Jury a good institution anywhere, and should be disposed to use even stronger language on it in India, it is an institution for which it is very difficult to find a substitute. That proposed by the Select Committee has, at all events, the advantage of expressing and corresponding to the actual operation of the Grand Jury system in England. I really believe that, taking England and Ireland as a whole, the cases in which during one single year Grand Juries ignore bills otherwise than under the direction of the Judge may be counted upon the fingers. So then, Sir, if the Bill becomes law, before a European British subject is placed at the bar, the Magistrate acting under the increased responsibility which this measure will create (for his miscarriages will no longer be shielded by the secret inquiry before the Grand Jury) must first make up his mind that there is evidence for a committal. Next, the papers will go to the Advocate General (for that I am told is the practice, though not the express law), who will say whether he agrees with the Magistrate. Lastly, the Judge, before the trial, will declare the charge upon the depositions to be sustainable. I end, therefore, by affirming that, if even an innocent man be unfortunate enough to have such a load of suspicion attached to him that it breaks through all this protective machinery, on every principle of justice he ought to be openly tried, and trust for the vindication of his innocence to the enquiry before the Common Jury."

The Hon'ble Mr. Cowie said that, as he had the honour of a seat in the Select Committee on this Bill, and had signed its report without reservation, he would say nothing more on the present occasion than to record his sincere belief that those gentlemen—and among them were many esteemed friends of his own—who had taken up the idea that the abolition of the Grand Jury was tantamount to the destruction of one of the strongholds of British liberty, would, under the influence of the provisions which the present Bill contained, before long be ready to admit that they were mistaken.

The Hon'ble Mr. Cust said that he gave his entire and hearty support to the measure now before the Council. The Hon'ble Member who introduced the Bill had, on more than one occasion, explained the reasons and objects of the Bill. He (Mr. Cust) could only speak from personal experience of twenty years in the Mofussil, to the absolute necessity of some such measure, and he trusted that this was only the first of a series of measures, by which local tribunals would be provided in every part of India for the trial of every class of Her Majesty's subjects; for it was really an anomaly that we should provide tribunals, and Codes of Criminal Procedure, for the trial of the Natives of India, and the subjects of European friendly States, and American citizens, and have to send Englishmen many hundred miles to be tried in the Presidency Towns.

As regarded the Grand Jury, sufficient reasons had been shown for its abolition in the Presidency Towns; and as regarded its extension to the local Courts, the first objection was, that there would be no means of collecting a Grand Jury which would not consist almost entirely of Natives; and the second objection was, that, when so collected, a Grand Jury would only be a cause of delay and an obstacle to justice.

The Hon'ble Mr. Bullen said that he could not deny that a strong case had been stated against Grand Juries, and that it was difficult to meet many of the objections which had been raised. In spite, however, of the eloquence of the Hon'ble Mover in spite of his arguments as to the theoretical inutility of Grand Jury, he confessed to an instinctive apprehension that if they were abolished, it would some day be found that an institution of great practical use and value had been lost. He did not, however, suppose that any thing he could now say would affect the fate of the Bill, and he would not therefore take up the time of the Council by repeating arguments which he had already urged in Committee.

The Hon'ble Mr. Anderson—"As I took part in the former debate upon this Bill, and mentioned some of the reasons which induced me to give it my support, I feel it due to that portion of the public which is opposed to the abolition of Grand Juries to state more in detail, though as briefly as I can, the grounds on which I still approve of that provision in the Bill. In doing this, I feel I can add nothing to what has been, at various times, advanced by my Hon'ble friend the mover, but I am anxious, on a question in which the public has taken considerable interest, to endeavour to show that, if unable to convince others, I have at least convinced myself. In the former debate I rested my support of the Bill principally on the consideration that the panel of the Petty Jury was not equal to the duty imposed upon it, that it had been starved by the constitution of another panel, and that it was of obvious importance that the admirable material now squandered on Grand Juries should be made available for the performance of duties the gravity of which could not be exaggerated, and which now devolved upon Petty Juries. I still regard this as a practical argument of no inconsiderable force; I still think that a Legislature is not justified in remaining passive when it sees the dearest interests, the lives and liberties of the governed, hang upon the verdicts of those whose previous training and habits of thought have not fitted them for the office, while gentlemen of intelligence and education take no other part in the administration of justice than what is implied in the solemn trifling, or the pernicious meddling, as the case may be, of Grand Jury investigations. It may, however, be urged that this is only an objection to an accident of the institution; still the accident is one of exces-

sive prominence in the country for which we are legislating. But my objection is not merely to an accident—it is to the institution in its essence. I hold it to have almost every vice which can be predicated of a judicial institution. It is secret, irresponsible, untrained, not guided by judicial wisdom and experience, unaided by legal exposition, keeping no record, taking evidence under imperfect sanctions, passing decisions without the assignment of any reason. I do not impute to it corruption, but I do say that at the only time when Grand Juries exercised any marked and decisive influence on public affairs, they were corrupt. To an institution thus honeycombed with defects, it is the theory, according to Lord Keeper Guilford and Chief Justice Pemberton, to assign a very slight power—according to Lord Somers, a very great power; but whatever be the theory, it can, if it chooses, exercise an enormous power: it can dam up the whole stream of public justice, and its proceedings cannot be questioned. I have said that at the only time when Grand Juries exercised any decisive influence on public affairs, they were corrupt. This leads me to examine an assertion which has been very frequently put forth in the discussion excited by this Bill, that at a certain period of our national history, the Grand Jury institution vindicated our constitutional liberties, and operated as a bulwark against despotism. I cannot assent to this proposition. All those verdicts which Englishmen regard with gratitude and pride, were verdicts of Petty Juries. The Jury which in Lilburne's case—to use the expression of Mackintosh—defied the bayonets of Cromwell, was a Petty Jury. The Jury which in Penn's case was locked up without food for forty hours, and persisted in finding Penn only guilty "of speaking in Gracechurch Street," was a Petty Jury. And I think that Lord Erskine, in his noble speech for the Dean of St. Asaph, stated but the simple truth when he said that to Edward Bushell, the foreman of that Jury, who maintained his opinion under the vilest threats from the Bench, and suffered fine and imprisonment on account of the verdict, we owe almost as much as we do to John Hampden. It was the noble firmness of this humble Englishman which established the great principle of the immunity of Juries. The verdicts in the case of the seven Bishops, in the case against the "Craftsman" for publishing a paper by Lord Chesterfield, in Woodfall's case, in the case of the Dean of St. Asaph, and in Hardy and Horne Tooke's case, were all verdicts of Petty Juries. The decision against general warrants in Wilkes' case was a judgment from the Bench. When then occurred the great service of the Grand Jury institution? I presume the period alluded to is that which in the ballads and pamphlets of the time was called the "reign of Ignoramus," the shrievalty of Bethell and Cornish in 1680-81, and the shrievalty of Pilkington and Shute in 1681-82. The representative case is that of Lord Shaftesbury—there are several others, but that is the one chiefly remembered. Now I contend that Lord Shaftesbury and others of his party owed their deliverance, not to the fact that the Jury was either a Grand or a Petty Jury, it might have been, as far as truth was concerned, either the one or the other, it might have been a Court of Areopagus, or a Sanhedrim, or a Vehmic tribunal of the steel and cord, or any other authority which fancy may suggest, but they owed their deliverance simply to the fact that the Jury was a packed Jury. Now this a fact as notorious to those who really know the history of the time as the battle of Hastings or the execution of Charles the First. The panels for the Juries, both Grand and Petty, were arranged by the Sheriffs. Dryden delineates Bethell one of the Sheriffs in his finest poem of Absolom and Achitophel, under the name of Shimei—

> "If any dare his factious friends accuse,
> He packs a Jury of dissenting Jews,
> Whose fellow feeling in the goodly cause
> Will save the suffering Saint from human laws.
> During his office treason was no crime;
> The sons of Belial had a glorious time."

I of course have no sympathy with the political principles of Dryden, and do not cite his lines as conclusive evidence of a fact, but I do say that every historian of mark has regarded the packing of Juries at the time under discussion as a point on which no room is left for doubt. The panels then were prepared by the Sheriffs, and so perfectly safe did Shaftesbury feel within the jurisdiction of the city, so perfectly unsafe did he feel everywhere else, that he took excellent care never to go a mile from his house in Aldersgate Street. College, the unfortunate enthusiast who was called the Protestant Joiner, was not so prudent. A Bill preferred against him was ignored by the London Grand Jury, but he was rash enough to join in a procession and to make a foolish speech at Oxford, when the King was holding the Parliament in that city. He found, at the cost of his life, after a trial of, if possible, more than the ordinary brutality of that hateful reign, that the institution of Grand Juries had no saving virtues beyond the liberties of the city of London. But the packing of Grand Juries was so flagrant, that the Court determined at all risks to have Sheriffs in its own interest. By a device too long to explain now, of inducing the Lord Mayor to drink to a gentleman as Sheriff, and by a riot at the Poll, it succeeded in returning Sir Dudley North and Mr. Rich as "*de facto*" Sheriffs. Did Shaftesbury—did the "daring pilot in extremity"—then trust to this vaunted institution? Not for an hour. He fled at once in disguise to Holland, and ended his turbulent life a few months after as a citizen of that Batavian Republic which, in his pride of power, he had threatened to destroy. But did Russell, Sydney, John Hampden the younger, did Cornish, who had packed so many Grand Juries—did they find any protection from the institution? It is a mere abuse of language to say that Grand Juries vindicated our liberties. The Grand Juries which spared Shaftesbury were chosen by the same artifices, under the same auspices, as the Grand Juries which were not reluctant to leave innocent blood to be shed by the manifold infamies of Oates and Dangerfield and Bedloe. To support Grand Juries by an appeal to the "reign of Ignoramus" is as if one were in the present reign to assert the reality of the Popish Plot on the authority of the evidence of Titus Oates, or to question the lofty character of Algernon Sydney by a reference to the charge of Sir George Jeffreys.

I contend then that no argument can be drawn from history in favour of Grand Juries, but I would wish now to mention some of what seem to me the dangerous incidents inseparable from the institution. I would, however, first premise that if a Grand Jury ignore a Bill on the recommendation of a Judge, its operation is superfluous,

and the duty had better be left to the Judge; but that if a Grand Jury ignore a Bill, without the recommendation of the Judge, its operation is mischievous. I will first take the large class of cases,—and I should remark that I only intend to allude to large classes of cases—in which the witnesses are either unwilling or can be tampered with. It is obvious that the interim between the commitment by a Magistrate and the investigation of a Grand Jury affords an ample opportunity for buying off hostile witnesses, for allowing such witnesses to be "got at"—I believe that is the technical phrase. If a witness of this kind chooses before a Grand Jury to omit a material part of his testimony, or even entirely to deny it, what remedy is there? You cannot assign perjury on his second statement. But take the larger class of unwilling witnesses, by which I mean those who will tell the truth, and nothing but the truth, but who will not, except under severe pressure, tell the whole truth. These are not the mere hard swearers of our Courts, they are men who have some regard for truth, but they do not consider themselves bound to disclose damaging facts, unless directly questioned regarding them. The prisoner may be a relative, a friend, a comrade: a feeling of honour may be aroused, or an idea that it is unlucky to give evidence that may lead to a conviction. Now witnesses if this kind require very discriminative treatment: their examination has, in the English Courts, been almost elevated into a science. I leave it to the Council to imagine how far the lubricity of a witness of this kind is tested in the Grand Jury room. But there is another considerable class of cases in which the character of the prosecutor is as much at stake as the character of the prisoner. Now it is not a pleasant reflection to those who feel a real interest in the due administration of justice when a prosecutor is able to say "The character of either the prisoner or of myself was to stand or fall by a certain issue, I was ready to place myself upon God and my country as to that issue. I had convinced an impartial Magistrate that my case demanded the most ample investigation. I had retained Counsel to assist me. I was prepared to meet my adversary in open Court before the Judges of the land, when by some process over which neither I nor any one else had any control, my case suffers an estoppel, how, why, I know not, '*quibus indiciis, quo testo probavit*;' there was not even a grand and verbose epistle, there was simply 'not a true Bill,' the prisoner got a clean tablet, and I was disgraced." Is this satisfactory? Foreign Jurists have regarded the English system of trial as one carefully devised for the escape of the guilty. It is very meet and right that every reasonable presumption should be in favour of the prisoner; it is very meet and right that every humane indulgence should be extended to him. It is the just pride of an Englishmen that this is so, whatever may be the cost. But it is not meet and right that, in addition to all the advantages which our merciful system grants to the prisoner, he should have the safeguard which is implied in the mysterious, incomprehensible, and, for all the public knows, the sortitionic agency of a Grand Jury. I confess I regard the system with the same feeling with which Crassus viewed the diviners, "*mirari se quod haruspex haruspicem sine risu auspicere posset*," I cannot make out how, when the Sessions are on, one Grand Jury-man can look at another without laughing.

But there is a class of cases in which another element exercises considerable influence over both Grand and Petty Juries, but which, in the latter instance, is in a great measure controlled by the wisdom and experience of the Judges—the element of sentiment. There are many cases in which the facts on the surface are very plain and very easily proved, but a question of great complexity then arises as to whether the facts are not susceptible of an explanation consistent with the innocence of the prisoner. Now up it is at this conjuncture at which the functions of a Grand Jury should really have ceased, that the dominion of sentiment commences. But I can explain my meaning more clearly by mentioning a case which excited considerable attention at the time, and was alluded to by Sir Frederick Thesiger (now Lord Chelmsford) when in 1857 he introduced his Bill for the abolition of Metropolitan Grand Juries. The Medical attendant of a County Lunatic Asylum was assaulted by a patient; he in consequence directed the patient to be placed under a cold shower-bath for thirty minutes, and then to have a dose of tartar emetic administered to him. The bath and the dose were soon given, and the man died within an hour. The case was sent for trial by one of the most able Magistrates in London, the present Chief Magistrate at Bow Street, Sir Thomas Henry, and the Grand Jury ignored the Bill. Now this, as Sir Frederick Thesiger said, was a case which demanded the most complete and unreserved enquiry. Such an enquiry might very probably have led to the same result as the proceedings of the Grand Jury, but the ends of justice and the interests of the public would then have been satisfied. Now this case represents a large class which Grand Juries for sentimental reasons will not permit to be tried. I might go on multiplying instances in which justice is defeated by the action of Grand Juries. It will be sufficient for me now to say that every lawyer in modern times who has studied the subject, has pronounced against Grand Juries. I will not merely allude to the Law Commissioners and to Jurists, whose opinions every thinking man must regard with reverence, but to men of the highest practical experience, to the late Lord Denman, who, when Common Serjeant, gave his opinion on the subject in the Edinburgh Review, to Lord Chelmsford, who was twice Attorney General, and to Mr. Stuart Wortley, Solicitor General under Lord Palmerston's former administration, who has paid the greatest attenion to Criminal Law and its administration, and who, when Recorder of London, pronounced Grand Juries to be useless and obstructive.

There are two other points to which I would wish to advert. The one is the assertion that the Grand Jury is a time-honoured institution which should not be rudely assailed. On this, I would remark that, placing aside the consideration that the Grand Jury is not now what was originally contemplated, a sort of inquisition, in some degree resembling our coroner's inquest, and that so far from being the public accuser or prosecutor as was at first intended, it is rather a committee of safety for prisoners—placing these considerations aside, I submit that all who know our legal history are aware that our Criminal Law and Procedure, though admirably administered, is still a very imperfect machine, and that this machine has, during the present century, been the subject of

continual experiment and improvement. It is not fifty years since the time-honoured institution of trial by battle was abolished. It is not forty years since sheep-stealing ceased to be a capital crime. It is not thirty years since prisoners charged with felony were allowed to be defended by Counsel, and since the time-honoured maxim of the Judge being the prisoner's Counsel was exploded. It is hardly twenty years since the offences of forestalling and regrating were abolished. It is not ten years since divorce on account of adultery ceased to be a luxury of the very wealthy.

The other point to which I would allude is the suggestion that the institution has not been abolished in England, and should therefore not be abolished here. Now, apart from the different circumstances of the two countries, I would urge that the system has been virtually condemned in England; the second reading of Sir F. Thesiger's Bill was carried by a majority of two to one, and the measure was only withdrawn on account of the approaching close of the Session. Early in the succeeding Session Sir F. Thesiger was raised to the Peerage. The present Chancellor has stated that he approves of the abolition of Grand Juries, but wishes the measure to be coincident with the appointment of a public prosecutor; this consideration, and the complication arising from the natural and reasonable wish to maintain the system in the counties, have retarded the long-desired reform in England. But beyond this consideration, I am clearly of opinion that it is our duty here to take advantage of the freedom of legislation, which the great field of India affords, to look only to what is right and useful, and not to swaddle a country which, in relation to our rule, is still a young country, with the old clothes of ancient systems, but to enable it to feel its life in every limb, and to assume a nobler part in the great drama of nations.

I have designedly confined my attention to that portion of the Bill which has excited objection. It remains for me only to say that I regard the Bill in its integrity as an admirable measure, as one representing real and safe progress in a most important department of Government. I confess I shall be glad to see the day when the same Judge who tries the Native shall try the European. I fully admit that this cannot be soon. But if it be eventually found that careful selection and special training cannot produce in the Civil Service Judges in whom the community will have the same confidence as those trained in Westminster Hall, I confess that, notwithstanding my affection for that service with which I have had an hereditary connexion for sixty years, I shall range myself with those who think that all Judges should be Barristers. That there will be some disadvantage in this change I am well aware, but still any change will be better than that the growing intelligence of the natives of this country should have reason to allege that we commit the protection of their lives and liberty and the redressal of their wrongs to an inferior agency to that which we demand for Europeans."

The Hon'ble Mr. Harington said that there being no motion before the Council for the amendment of any part of the Bill, altered as proposed by the Select Committee, of which he had the honour of being a Member, he would not occupy the time of the Council with remarks on any of the details of the Bill. Having carefully considered the arguments which had been advanced both for and against the particular Sections of the Bill to which reference had been made in the present debate, he felt bound to say that he was prepared to give to the Bill, as it stood, his unqualified support. He entirely concurred with what his Hon'ble Colleague Mr. Anderson had said in favour of the Bill. He believed that the Bill would be a most useful addition to the Statute Book, and whatever differences of opinion existed as regarded some of the provisions of the Bill, he felt sure that all would rejoice that it would be the means of removing, to a considerable extent, the reproach which had so long attached to the Indian Government, that crimes were either committed by European British subjects in the Mofussil with impunity, or that when they were prosecuted, the prosecution not unfrequently entailed upon the whole of the persons concerned, particularly the accused, if he proved innocent of the charge, an amount of hardship which was almost as great a reproach to the Government as the other branch of the alternative.

The Hon'ble Sir Charles Trevelyan said that he had seen this question opened under Lord William Bentinck, and he esteemed it a privilege that he should be able to take some part in its being closed under Sir John Lawrence. There never was any real doubt as to the advantages to be expected from the settlement of Europeans in the interior of India. The only question was how the protection of the Natives could be reconciled with the maintenance of the just and necessary rights of the Europeans. The clauses of this Bill which provided for the sending of Judges of the High Courts under Commission for the trial of offences committed in any part of British India, and the measures in progress for the formation of independent Courts of a similar character at Allahabad, Lahore, and Karáchi, would solve that difficultly. Justice, if not brought to every one's door, would, at any rate, be easily accessible to every one in India, and the scales of justice would be firmly and impartially held by professionally trained Judges, assisted by an English Bar and by an Indian Bar, which, year by year, was approximating to the English standard. He entirely agreed with the Committee that what related to the abolition of the Grand Jury was the least important part of the Bill. With all the advantage of ancient prestige and established habit the Grand Jury system barely held its ground in England, and it was totally unsuited to the interior of India. He was persuaded that the provision which the Bill made for the constitution of Juries of twelve, selected, as described by his Hon'ble friend (Mr. Maine), from the small but highly qualified European class in the interior, delivering their verdict either by a unanimous decision or by the decision of a majority of nine concurred in by the Judge, would be found, after a short trial, to be a far sounder institution than the plan, now in operation at the Presidency Towns, of two Juries, one a Grand Jury, and the other a Petty Jury.

The Hon'ble the Maharaja of Vizianagram said that the inutility of the Grand Jury system had been so ably discussed, and its disadvantages so fully pointed out by his Hon'ble and learned Colleague, Mr. Maine, that he could hardly do more than give his unqualified assent to all that

he had advanced on the subject, and to express a hope that the Bill for the abolition of Grand Juries in the Presidency Towns, in its amended form, might be passed into law.

One immediate beneficial result that was likely to follow the abolition of the Grand Jury, was the opportunity it would afford for the improvement of the Petty Jury system. According to the plan which had hitherto obtained, not only here, but in Madras and Bombay, little discrimination seemed to have been exercised in empanelling Petty Jurors. The Petty Jury list had been made up of men who had not always represented the independence, intelligence, and other qualifications essential to the proper and conscientious discharge of the duties of Jurors. The consequence had been, that the frequency of their failures and shortcomings had led the admirers of the Jury system to deplore the evil as much as though trial by Jury did not exist at all. By the abolition of Grand Juries, the *matériel* of which they were composed might be made use of to strengthen and support the Petty Jury.

The Hon'ble Mr. Maine :—"Sir, as there is no serious opposition to the Bill, there is really nothing to reply to. But I hope the Council will not refuse me the pleasure of thanking my Hon'ble friend Mr. Anderson for the eloquence with which he has exposed a considerable historical fallacy : and there is also a point on which I should be glad to be permitted to offer some explanation. Sir, in all the controversy on this Bill—a controversy which has been conducted with remarkable courtesy throughout,—there has been only one incident of which I have the least reason to complain. A remark of mine that Grand Juries are an obstruction to justice, was pressed on the Grand Jury of a particular Presidency Town as if it had been a special aspersion on Indian Grand Juries. Now, Sir, those words are simply and solely a quotation from Jeremy Bentham ; and I assert distinctly that I have said nothing on the subject of Grand Juries which is inconsistent with the exercise of the utmost intelligence and the possession of the utmost conscientiousness on the part of the Grand Jurors. I freely admit that in quiet and ordinary times nothing worse can be charged against a Grand Jury than this—that it starves the Petty Jury and does the Magistrate's work over again for him. It is a costly and complex machine, absorbing the greatest part of the proprietor's capital, but turning out the fabric at one end in exactly the same state as it came in at the other. But in periods of extraordinary excitement, when class is set against class or party against party, and when there is a vague feeling abroad that everybody must be up and striving, then it is so ill-designed and its parts are so ill-related to one another, that it works awry and produces the monstrous results described in Mr. Ritchie's papers.

Sir, I am not insensible to the force of the objection which fell from my Hon'ble friend Mr. Bullen, that, however plausible be the arguments used, we are nevertheless destroying an honoured institution which is felt at home to be a safeguard of liberty. Sir, I cannot help thinking that much that has been heard from home since this discussion commenced must have tended to modify the opinions once entertained in Bengal as to the extraordinary value attached by the English to the Grand Jury. I speak, not in irony or sarcasm, but in all seriousness, when I say that I attribute much of what I must call the extraordinary exaggeration which was once current here on the subject, to the fact that perhaps the majority of Europeans in India belong to nationalities, especially Scottish, which have no Grand Jury in their natural home, but which, indeed, have that which is the very antithesis and contradictory of a Grand Jury—a system of public prosecutors. But, Sir, the opinion of Scotchmen who have really studied the subject may be gathered from a speech of the Lord Advocate which I read the other day. He was commenting on some proposal which appeared preposterous both to him and to his audience, for introducing into Scotland some fragment of English law ; and he proceeded to say that really if things went on in that way, there would some day or other be somebody actually proposing to transplant into Scotland that institution condemned by every Jurist of credit, the Grand Jury. And now, Sir, as to the opinion entertained of Grand Juries in England. My observation leads me to believe that in all cities, in every part of the country which has the remotest resemblance to the Presidency Towns of India, Grand Juries are intensely disliked. They are looked upon as a waste of time and an outrage upon the common sense of men of business. In the counties, however, they are not unpopular, but their popularity is wholly unconnected with their judicial functions. Mr. Stephen appears to me to have exactly expressed the truth when he speaks of the enquiry before the Grand Jury 'as a mere form which nobody would wish to be continued unless for the social advantages which attend the connection of the class from which Grand Jurors are taken with the administration of Criminal Justice.' Sir, the country gentlemen, who in any other country than England would be a part, and not the lowest part, of the aristocracy, cannot reasonably be expected to serve on Petty Juries, but they are not unwilling to form part of a splendid ceremony They come into the county town to meet the Judge and listen to his address, and thus add dignity to what is the most dignified solemnity among English usages—a country assize. Moreover, a County Grand Jury, it must be remembered, consists of the very same persons who, in another capacity, may be said to govern the county, who, assembled at quarter-sessions, tax the county, direct its jail discipline, and administer its public works. Hence there is a clear advantage in the discussion which their meeting facilitates, and, besides, their power of presentment is of not inconsiderable value, since it enables them to bring up any part of the county which is backward, or which tries to evade its duties, to the level of the rest. But as regards their judicial functions, I never heard that they did more than satisfy Mr. Anderson's canon and find or ignore Bills exactly as the Judge directed them. I am bound, too, to add that if the Grand Jury were defended upon some grounds which have been advanced on its behalf in India, the county gentlemen who, be it remembered, have interests of their own to protect, would be the first to acknowledge that it could not exist six months longer.

Sir, I am not so blind as not to see the true source of the opposition which once showed itself against this measure. I should think more meanly than I do of the intelligence of my

countrymen if I considered them incapable of feeling the force of some of the objections to the Grand Jury system—objections of which the worst that has been said is that they are theoretical, though they have in fact occurred, not simply to the great speculative Jurist Bentham, but to every experienced lawyer who has attended to the subject, to Lord Denman, to Lord Campbell, and to Lord Brougham—all honoured names in the history of our criminal law—objections so strong that when they have once been stated, nobody who possesses the faculty of distinguishing a principle from a platitude will ever venture to defend the Grand Jury. But, Sir, the feeling which once disclosed itself was, I feel sure, something like this: here is another institution in which the non-official class has accidentally attained predominance, swept away by an all-absorbing Government. Now, Sir, if the abolition of the Grand Jury had stood by itself, I should have had some sympathy with that feeling. But it would be just, and even more wise than just, to observe how steadily the current of legislation has recently set in the other direction. There are those two seats at the Council-board which have been reserved by law to my two Hon'ble friends at the other end of the table; and I take the liberty of saying, in reply to observations which I should be inclined to describe as somewhat unmannerly had they been seriously intended, that there are no more influential voices in discussion than those of my Hon'ble friends whenever they choose to give us the benefit of their advice, either in Council or Committee. There are also the similar seats reserved in the local Councils, and, lastly, there are those great Municipalities rising up all over India in which a practical preponderance is enjoyed by the non-official community. Sir, it seems to me that it is only the hard measure which new institutions get as compared with old, that can account for the opinion that the British Crown and British Parliament have recently been indifferent to the just claims of non-official Europeans. For my part I would go still further. I attach the utmost importance to the association of non-officials with officials in the administration of justice. My Hon'ble friend the Lieutenant Governor proposed to try all minor cases in the Presidency Towns by a bench composed chiefly of non-official Magistrates; and though I saw difficulties in the way, I was in favour of the proposal. In the Statement of Objects and Reasons appended to the original Bill, I myself shadowed forth a plan for joining some members of the non-official community with the Zillah Judge in the trial of offences by Europeans, too petty to be reserved for a Judge on circuit. If there be any fragment of truth at the bottom of these miserable assertions of the inveterate hostility of class to class—assertions which seem to me to create the very feeling which they affect to convey—I should expect them to disappear in the common discharge of a most sacred duty. Nor am I without hope that my Hon'ble friend at my side, Mr. Harington, may find room in his Code of Civil Procedure for some system of Civil Juries in the Presidency Towns. We have here as good material for such Juries as exists any where in the world, and if they were established, it would not be matter of surprise if they came to rival those London Juries who, under the guidance of Lord Mansfield, founded the Commercial Law of England."

The Motion was put and agreed to.

The Hon'ble Mr. Maine also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The Council then adjourned.

Whitley Stokes,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

Calcutta,
*The 20th March* 1865.

## *Government of Fort St. George.*

### Cinchona Operations in the Neilgherries.

*Report on the Number and Condition of Cinchona Plants on the Neilgherries on the 31st January 1865.*

| Species. | Botanical Names. | Commercial Names. | No. of Plants. | Value per lb. of Dry Bark in the London Market. | Remarks. |
|---|---|---|---|---|---|
| | | | | s. d. s. d. | |
| 1 | C. Succirubra ... | Red Bark ... | 1,44,340 | 2 6 to 8 9 | The number of plants permanently planted out in the plantations remains the same as last month, namely, 1,65,351. |
| 2 | C. Calisaya ... | Yellow Bark ... | 2,580 | 2 10 to 7 0 | |
| 3 | C. Officinalis Var Condamenia (C. Uritusinga) | Original Loxa Bark | 2,981 | 2 10 to 7 0 | |
| 4 | Ditto. Var Bonplandiana (C. Chahuarguera) | Select Crown Bark | 3,34,716 | 2 10 to 7 0 | The increase by propagation is 17,231, being 2,422 plants under the average of the last six months, making the total number of plants at the end of the month 5,16,683. |
| 5 | C. Crespilla ... | Fine Crown Bark ... | 2,498 | 2 10 to 6 0 | |
| 6 | C. Lancifolia ... | Pitayo Bark ... | 30 | 1 8 to 2 10 | |
| 7 | C. Nitida ... | Genuine Grey Bark | 8,500 | 1 8 to 2 9 | |
| 8 | C. Species without name .. | Fine Grey Bark ... | 2,786 | 1 8 to 2 10 | |
| 9 | C. Micrantha ... | Grey Bark ... | 14,455 | 1 8 to 2 9 | |
| 10 | C. Peruviana ... | Finest Grey Bark... | 3,372 | 1 8 to 2 10 | |
| 11 | C. Pahudiana ... | Unknown ... | 425 | Worthless. | |
| | | Total number of plants ... | 5,16,683 | | |

### TABLE II.

*Memorandum of the growth of eleven plants of C. Succirubra, planted on the 2nd Denison Plantation at Neddivuttum, on the 30th August 1862.*

| No. of Plants. | Height in inches when planted on the 30th August 1862. | Height in inches on the 31st Dec. 1864. | Height in inches on the 31st Jan. 1865. | Growth in inches during Jan. 1865. | By whom planted. |
|---|---|---|---|---|---|
| 1 | 23 | 112 | 113¼ | 1¼ | His Excellency Sir W. Denison. |
| 2 | 16½ | 101 | 102 | 1 | |
| 3 | 19 | 104½ | 105¼ | 0¾ | |
| 4 | 15 | 98¾ | 99 | 0¼ | |
| 5 | 27 | 117 | 117½ | 0½ | |
| 6 | 20 | 89 | 90 | 1 | |
| 7 | 20 | 107¾ | 108 | 0¼ | J. W. Breeks, Esq. |
| 8 | 18 | 109 | 109½ | 0½ | Dr. Sanderson. |
| 9 | 20 | 111¼ | 112 | 0¾ | J. D. Sim, Esq. |
| 10 | 20 | 113 | 114 | 1 | Lieutenant McLeod. |
| 11 | 18 | 98¼ | 98¾ | 0½ | P. Grant, Esq. |
| 12 | ... | 53 | 53½ | 0½ | Plant cut down for bark. |

Table II. exhibits the growth of eleven plants of Cinchona Succirubra planted out by His Excellency the Governor and other gentlemen at Neddivuttum on the 30th August 1862. The average growth of these plants during the month is $\frac{31}{44}$ths of an inch, being about ½ an inch above the growth of last month.

One of the two plants cut down on the 20th of March 1863, for the bark submitted to Mr. Howard for analysis, has made strong shoots of 53½ inches in height, giving the growth of ½ an inch during the month.

## TABLE III.

*Showing the height of twelve plants of C. Officinalis planted on the Dodabetta Plantation, at Ootacamund, on the 30th September 1863.*

| No. of Plants. | Height in inches when planted on the 30th September 1863. | Height in inches on the 31st Dec. 1864. | Height in inches on the 31st Jan. 1865. | Growth in inches during Jan. 1865. |
|---|---|---|---|---|
| 1 | 19 | 62½ | 70 | 2½ |
| 2 | 14½ | 58½ | 61½ | 3 |
| 3 | 28 | 73 | 75 | 2 |
| 4 | 22 | 75 | 78½ | 3½ |
| 5 | 21½ | 69 | 71½ | 2½ |
| 6 | 28 | 76 | 79 | 3 |
| 7 | 22½ | 68 | 71 | 3 |
| 8 | 21½ | 68 | 71 | 3 |
| 9 | 21½ | 75 | 78 | 3 |
| 10 | 19½ | 71½ | 73 | 1½ |
| 11 | 24 | 72½ | 75 | 2½ |
| 12 | 24 | 71½ | 74 | 2½ |

The twelve pl
Cinchona Off
(a shrubby spec
the Dodabetta
tion give an
growth of 2
or ⅒ of an inch
the growth
month.

Not having issu
plants to the
during the mont
total number of
distributed rema
same as last
viz., 52,357.

OOTACAMUND,
15th *February* 1865.

(Signed) W. G. McIVOR
*Supdt., Govt. Cinchona Plant*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*

No. 12.

# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 25, 1865.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th March 1865, and is hereby promulgated for general information:—

## Act No. IX of 1865.

*An Act to amend Act No. XVI of 1864 (to provide for the Registration of Assurances.)*

Preamble.

Whereas it is expedient to amend Act No. XVI of 1864 (*to provide for the Registration of Assurances*); It is enacted as follows:—

Addition to tenth Section of Act XVI of 1864.

**1.** The second sentence of the tenth Section of Act No. XVI of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to thirteenth Section of said Act.

**2.** The thirteenth Section of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Act XVI of 1864, Section 25 repealed.

**3.** The twenty-fifth Section of Act No. XVI of 1864 is hereby repealed.

Registration of instruments affecting immoveable property situate in more than one District.

**4.** Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation stating the date on which it was registered and its number in his Register Book to the District Registrar of every District in which any other part of such property is situate, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Recognition of powers of attorney executed by persons absent from India without exact observance of provisions of Section 28 of Act XVI of 1864.

**5.** Every power of attorney not duly executed or attested in compliance with the terms of the twenty-eighth Section of Act XVI of 1864 shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI of 1864, Sec. 40, repealed.

**6.** The fortieth Section of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

**7.** An abstract of every original instrument affecting immoveable property registered in the Office of any Deputy Registrar shall, with an endorsement shewing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date

to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own Office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in the fifty-sixth Section of the said Act XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI of 1864 during his absence on duty.

**8.** During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the local Government such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

**9.** This Act shall be read and taken as part of the said Act No. XVI of 1864.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept., (Legislative.)*

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The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th March 1865, and is hereby promulgated for general information :—

Act No. X of 1865.

*An Act to amend and define the Law of Intestate and Testamentary Succession in British India.*

Preamble.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India ; It is enacted as follows :—

PART I.

*Preliminary.*

Short Title.

**1.** This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

**2.** Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

Interpretation Clause.

**3.** In this Act, unless there be something repugnant in the subject or context.—

"Number." "Gender."

Words importing the singular number include the plural : words importign the plural number include the singular ; and words importing the male sexinclude females.

"Person."

"Person" includes any Company or Association, or body of persons, whether incorporated or not.

"Year." "Month."

"Year" and "month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property."

"Moveable property" means property of every description except immoveable property.

"Province."

"Province" includes any division of British India having a Court of the last resort.

"British India."

"British India" means the territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106, other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor." "Minority.

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person.

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Probate."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Executor."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Administrator."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor,

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

"Local Government."

"High Court."

**4.** No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

Interests and powers not acquired nor lost by marriage.

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## PART II.

### *Of Domicile.*

**5.** Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Law regulating succession to a deceased person's immoveable and moveable property, respectively.

*Illustrations.*

(*a.*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b.*) A, an Englishman having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

**6.** A person can only have one domicile for the purpose of succession to his moveable property.

One domicile only affects succession to moveables.

**7.** The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled: or, if he is a posthumous child in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

*Illustration.*

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

**8.** The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Domicile of origin of illegitimate child.

**9.** The domicile of origin prevails until a new domicile has been acquired.

Continuance of domicile of origin.

**10.** A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Acquisition of new domicile.

*Explanation.*—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

*Illustrations.*

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

**11.** Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Special mode of acquiring domicile in British India.

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

**12.** A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

**13.** A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

**14.** The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

*Exception.*—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

**15.** By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

**16.** The wife's domicile during the marriage follows the domicile of her husband.

*Exception.*—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

**17.** Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

**18.** An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

**19.** If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

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## Part III.

### *Of Consanguinity.*

Kindred or consanguinity.

**20.** Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

**21.** Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

**22.** Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

**23.** For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindre

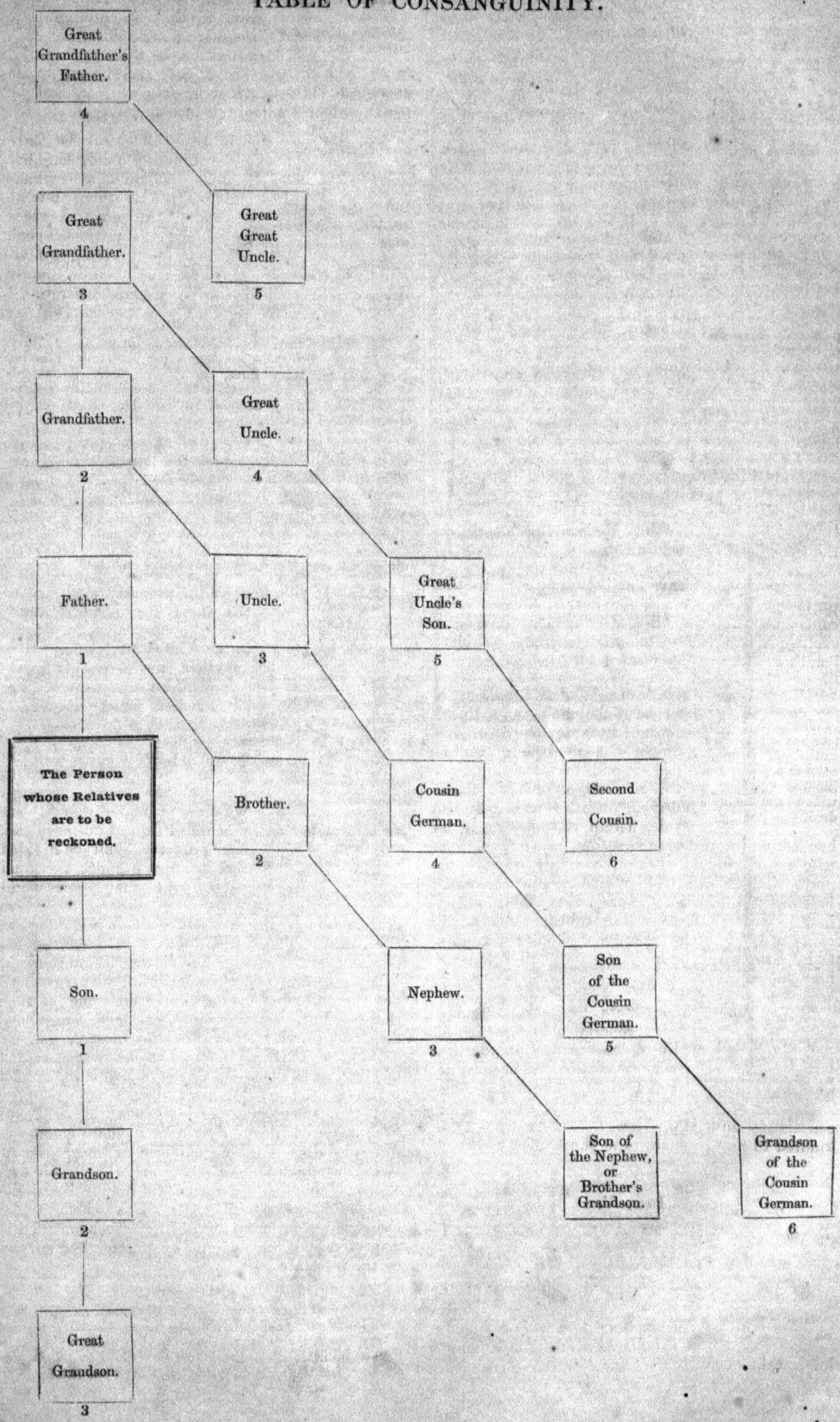
**24.** In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great uncle, for they are both in the sixth degree of kindred.

# TABLE OF CONSANGUINITY.



PART IV.

*Of Intestacy.*

As to what property a deceased person is considered to have died intestate.

**25.** A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

*Illustrations.*

(*a.*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b.*) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c.*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d.*) A has bequeathed 1,000*l* to B, and 1,000*l* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l*.

Devolution of such property.

**26.** Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

*Explanation.*—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

**27.** Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left no widow, and where he has left no kindred.

**28.** Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

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PART V.

*Of the Distribution of an Intestate's Property.*

*(a) Where he has left lineal descendants.*

Rules of distribution.

**29.** The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Where the intestate has left a child or children only.

**30.** Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left no child, but a grandchild or grand-children.

**31.** Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

*Illustrations.*

(*a*) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

Where the intestate has left only great grandchildren or lineal descendants in a remoter degree.

**32.** In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him, and those through whom the more remote descend are dead.

**33.** If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

*Illustrations.*

(*a*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(b) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(c) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(b) *Where the Intestate has left no lineal descendants.*

Rules of distribution where the intestate has left no lineal descendants.

**34.** Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows :—

Where intestate's father is living.

If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead, but his mother, brothers and sisters are living.

**36.** If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

*Illustration.*

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

**37** If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's life-time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

*Illustration.*

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

**38.** If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.

*Illustration.*

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

**39.** If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant nor father nor mother.

**40.** Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the share which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

**41.** If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

*Illustrations.*

(a) A, the intestate, has left a grandfather and a grandmother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(b) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(c) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(d) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

Children's advancements not to be brought into hotch-pot.

**42.** Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

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## PART VI.

### *Of the Effect of Marriage and Marriage Settlements on Property.*

Rights of widower and widow respectively.

**43.** The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

**44.** If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

No rights to property not comprised in an antenuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

**45.** The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

Settlement of minor's property in contemplation of marriage.

## PART VII.

### *Of Wills and Codicils.*

**46.** Every person of sound mind and not a minor may dispose of his property by Will.

Persons capable of making Wills.

*Explanation* 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

*Explanation* 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

*Explanation* 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

*Explanation* 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

*Illustrations.*

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

**47.** A father whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Testamentary guardian.

**48.** A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Will obtained by fraud, coercion or importunity.

*Illustrations.*

(*a*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favour; such Will has been obtained by fraud, and is invalid.

(*b*) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c*) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

**49.** A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

Will may be revoked or altered.

## PART VIII.

### *Of the Execution of unprivileged Wills.*

**50.** Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules:—

Execution of unprivileged Wills.

*First.*—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

*Second.*—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

*Third.*—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

**51.** If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

Incorporation of papers by reference.

## PART IX.

### *Of Privileged Wills.*

Privileged Will.

**52.** Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

*Illustrations.*

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(*e*) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(*f*) A, a mariner serving on a Military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Mode of making, and rules for executing, privileged Wills.

**53.** Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

*First.*—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

*Second.*—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

*Third.*—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

*Fourth.*—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

*Fifth.*—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his life-time, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

*Sixth.*—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

*Seventh.*—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

## PART X.

### *Of the Attestation, Revocation, Alteration and Revival of Wills.*

Effect of gift to attesting witness.

**54.** A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

*Explanation.*—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest or by being executor.

**55.** No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Revocation of Will by testator's marriage.

**56.** Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Power of appointment defined.

*Explanation.*—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Revocation of unprivileged Will or Codicil.

**57.** No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

*Illustrations.*

(*a*) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

Effect of obliteration, interlineation, or alteration in unprivileged Will.

**58.** No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless

such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

**59.** A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

*Explanation.*—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

**60.** No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

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## PART XI.

### *Of the Construction of Wills.*

Wording of Will.

**61.** It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Enquiries to determine questions as to object or subject of Will.

**62.** For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

*Illustrations.*

(*a*) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A by his Will leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

**63.** Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

*Illustrations.*

(*a*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d*) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(*e*) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f*) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

**64.** Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

*Illustration.*

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

**65.** If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

*Illustrations.*

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(*b*) The testator bequeaths to A "his zamíndárí of Rampore." He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

When part of description may not be rejected as erroneous.

**66.** If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

*Explanation.*—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under the sixty-fifth Section are to be considered as struck out of the Will.

*Illustrations.*

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(*b*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighás of land." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

**67.** Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

*Illustrations.*

(*a*) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*) A, by his Will, leaves to B "his estate called Sultánpur Khurd." It turns out that he had two estates called Sultánpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

**68.** Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

*Illustrations.*

(*a*) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(*b*). A bequeaths 1,000 rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*) A bequeaths to B rupees, or "his estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of any clause to be collected from entire Will.

**69.** The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

*Illustrations.*

(*a*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

When words may be understood in a restricted sense, and when in a sense wider than usual.

**70.** General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

*Illustrations.*

(*a*) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

**71.** Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected, if reasonable construction can be put on it.

**72.** No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

**73.** If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intention to be effectuated as far as possible.

**74.** The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

*Illustration.*

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

**75.** Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

*Illustrations.*

(*a*) The testator by the first clause of his Will leaves his estate of Rámnagar "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(*b*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

**76.** A Will or bequest not expressive of any definite intention is void for uncertainty.

*Illustration.*

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

Words describing subject refer to property answering that description at testator's death.

**77.** The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power of appointment executed by general bequest.

**78.** Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to the objects of a power in default of appointment.

**79.** Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

*Illustration.*

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

Bequest to "heirs," &c., of a particular person without qualifying terms.

**80.** Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

*Illustrations.*

(*a*) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A bequeaths 10,000 rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) A leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

**81.** Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

*Illustration.*

(*a*) A bequest is made to the "legal representatives of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

**82.** Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

**83.** Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

*Illustrations.*

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(e) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(f) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(g) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

**84.** Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

*Illustrations.*

(a) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(b) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(c) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

**85.** Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

**86.** The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

**87.** In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

*Illustrations.*

(a) A, having three children, B, C, and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(b) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(c) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(d) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(e) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(f) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(g) A makes a bequest in favour of the child to be born of a woman, who never becomes his wife. The bequest is void.

(h) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

**88.** Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

*First.*—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

*Second.*—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

*Third.*—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

*Fourth.*—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

*Explanation.*—In the four last rules, the word Will does not include a Codicil.

*Illustrations.*

(*a*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement, the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b*) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(*d*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(*e*) A, by his Will, bequeaths to B 5,000 rupees, and by a Codicil to the Will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(*f*) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(*g*) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(*h*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the Will, an annuity of 400 rupees. B is entitled to both legacies.

(*i*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

Constitution of residuary legatee.

**89.** A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

*Illustrations.*

(*a*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b*) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in my "banker's hands to defray and discharge my debts, which I "hereby desire B to do, and keep the residue for her own "use and pleasure." B is constituted the residuary legatee.

(*c*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which a residuary legatee is entitled.

**90.** Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

*Illustration.*

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamíndárí, which belongs to him at the time of his death. B is entitled to the two legacies and the zamíndárí as part of the residue.

Time of vesting of legacy in general terms.

**91.** If a legacy be given in general terms, without specifying the time, when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

In what case a legacy lapses.

**92.** If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

*Illustrations.*

(*a*) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(*e*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

**93.** If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

*Illustration.*

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

**94.** But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

*Illustration.*

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

**95.** Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

*Illustration.*

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

**96.** Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

*Illustration.*

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

**97.** Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

**98.** Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Survivorship in case of bequest to a described class.

*Exception.*—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

*Illustrations.*

(*a*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E and F, were born to B. C and E died in the life time of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(*f*) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

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## Part XII.

### *Of void Bequests.*

**99.** Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Bequest to a person by a particular description, who is not in existence at the testator's death.

*Exception.*—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

*Illustrations.*

(*a*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(*b*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

**100.** Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

*Illustrations.*

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(b) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(c) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(d) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

**101.** No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

*Illustrations.*

(a) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(b) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(c) A fund is bequeathed to A for his life, and after his death to B for his life; with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in the Sections 100, 101.

**102.** If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

*Illustrations.*

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease In all other respects the case is the same as that supposed in Illustration (a). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Sections 100, 101, or 102.

**103.** Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

*Illustrations.*

(a) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(b) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Effect of direction for accumulation.

**104.** A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

*Exception.*—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

*Illustrations.*

(a) The Will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(*b*) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*c*) The Will directs that the rents of the farm of Sultânpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d*) The Will directs that the rents of the farm of Sultânpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*e*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequest to religious or charitable uses.

**105.** No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

*Illustration.*

A having a nephew makes a bequest by a Will not executed nor deposited as required—
For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and perferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.
All these bequests are void.

## PART XIII.

### *Of the Vesting of Legacies.*

Date of vesting of legacy when payment or possession postponed.

**106.** Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

*Explanation.*—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

*Illustrations.*

(*a*) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b*) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B, and C, subject to be devested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

**107.** A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

*Exception.*—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necesary, to be applied for his benefit; the bequest of the fund is not contingent.

*Illustrations.*

(*a*) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(*b*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or, "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(*c*) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g*) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and

after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(*i*) A leaves his farm of Sultânpur Khurd to B, if B shall convey his own farm of Sultânpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

**108.** Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

*Illustration.*

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

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## PART XIV.

### *Of Onerous Bequests.*

Onerous bequest.

**109.** Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

*Illustration.*

A having shares in (X), a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

One of two separate and independent bequests to same person may be accepted, and the other refused.

**110.** Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

*Illustration.*

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

## PART XV.

### *Of Contingent Bequests.*

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

**111.** Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

*Illustrations.*

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the lifetime of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

**112.** Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

*Illustrations.*

(*a*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*d*) Property is bequeathed to A for life, and after his death to B and C, with a direction that in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

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## PART XVI.

### *Of Conditional Bequests.*

Bequest upon impossible condition.

**113.** A bequest upon an impossible condition is void.

*Illustrations.*

(*a*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(*b*) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

**114.** A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

*Illustrations.*

(*a*) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(*b*) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to the vesting of a legacy.

**115.** Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

*Illustrations.*

(*a*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(*b*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(*c*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(*d*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(*e*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(*f*) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(*g*) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A, within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and, on failure of the prior bequest, to B.

**116.** Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

*Illustrations.*

(*a*) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(*b*) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

Case in which the second bequest shall not take effect on failure of the first.

**117.** Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

*Illustration.*

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

**118.** A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

*Illustrations.*

(*a*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(*b*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(*c*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(*d*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

**119.** An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

*Illustrations.*

(*a*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

**120.** If the ulterior bequest be not valid, the original bequest is not affected by it.

*Illustrations.*

(*a*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b*) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate

during her life as if no condition had been inserted in the Will.

(c) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

**121.** A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

*Illustrations.*

(a) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(b) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(c) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under Section 107.

**122.** In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the one hundred and seventh Section.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the nonperformance of which the subject-matter is to go over.

**123.** Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

*Illustrations.*

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

Performance of condition, precedent or subsequent, within specified time.

**124.** Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

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## Part XVII.

### *Of Bequests with Directions as to Application or Enjoyment.*

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

**125.** Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

*Illustration.*

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

**126.** Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him, as if the Will had contained no such direction.

*Illustrations.*

(a) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(b) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

**127.** Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

*Illustrations.*

(a) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(b) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their

decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

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## PART XVIII.

### *Of Bequests to an Executor.*

Legatee named as executor cannot take unless he shows intention to act as executor.

**128.** If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise mainfests an intention to act as executor.

*Illustration.*

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

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## PART XIX.

### *Of Specific Legacies.*

Specific legacy defined.

**129.** Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

*Illustrations.*

(*a*) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
"The sum of 1,000 rupees in a certain chest."
"The debt which B owes him."
"All his bills, bonds, and securit i esbelonging to him lying in his lodgings in Calcutta."
"All his furniture in his house in Calcutta."
"All his goods on board a certain ship then lying in the River Hooghly."
"2,000 rupees which he has in the hands of C."
"The money due to him on the bond of D."
"His mortgage on the Rampore Factory."
"One-half of the money owing to him on his mortgage of Rampore Factory."
"1,000 rupees, being part of a debt due to him from C."
"His capital Stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan."
"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."
"All the wine which he may have in his cellar at the time of his death."
"Such of his horses as B may select."
"All his shares in the Bank of Bengal."
"All the shares in the Bank of Bengal which he may possess at the time of his death."
"All the money which he has in the 5½ per cent. loan of the Government of India."
"All the Government securities he shall be entitled to at the time of his decease."
Each of these legacies is specific.

(*b*) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B.
The legacy is specific.

(*c*) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.
The legacy is specific.

(*d*) A bequeaths to B—
His house in Calcutta.
His zamíndárí of Rampore.
His taluk of Rámnagar.
His lease of the Indigo factory of Sulkea.
An annuity of 500 rupees out of the rents of his zamíndárí of W.
A directs his zamíndárí of X to be sold, and the proceeds to be invested for the benefit of B.
Each of these bequests is specific.

(*e*) A by his will charges his zamíndárí of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamíndárí to D. Each of these bequests is specific.

(*f*) A bequeaths a sum of money to buy a house in Calcutta for B.
To buy an estate in Zillah Fureedpore for B.
To buy a diamond ring for B.
To buy a horse for B.
To be invested in shares in the Bank of Bengal for B.
To be invested in Government securities for B.
A bequeaths to B—
"A diamond ring."
"A horse."
"10,000 rupees worth of Government securities."
"An annuity of 500 rupees."
"2,000 rupees, to be paid in cash."
"So much money as will produce 5,000 rupees 4 per cent. Government securities."
These bequests are not specific.

(*g*) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.
No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

**130.** Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

*Illustration.*

A bequeaths to B—
"10,000 rupees of his funded property."
"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."
"10,000 rupees at present secured by mortgage of Rampore Factory."
No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

**131.** Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

*Illustration.*

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.
The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

**132.** A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

*Illustration.*

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.
The legacy is not specific.

**133.** Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

When enumerated articles are not to be deemed to be specifically bequeathed.

**134.** Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Retention in form of specific bequest to several persons in succession.

*Illustrations.*

(*a*) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

**135.** Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

*Illustration.*

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

**136.** If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

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## PART XX.

### *Of Demonstrative Legacies.*

**137.** Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Demonstrative legacy defined.

*Explanation.*—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

*Illustrations.*

(*a*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*) A bequeaths to B ten bushels of the corn which shall grow in his field of "Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Rámnagar.

A bequeaths to B "10,000 rupees out of his estate at Rámnagar," or charges it on his estate at Rámnagar.

"10,000 rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

**138.** Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

*Illustration.*

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

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## PART XXI.

### *Of Ademption of Legacies.*

**139.** If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Ademption explained.

*Illustrations.*

(*a*) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods which shall be in or about his dwelling-house in M Street in Calcutta at the time of his death."

A, in his lifetime,
Sells or gives away the ring.
Converts the chain into a cup.
Converts the wool into cloth.
Makes the cloth into a garment.
Takes another house into which he removes all his goods.
Each of these legacies is adeemed.

(*b*) A bequeaths to B—
"The sum of 1,000 rupees in a certain chest."
"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(*c*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed.

Non-ademption of demonstrative legacy.

**140.** A demonstrative legacy is not ademed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from a third party.

**141.** Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is ademed.

*Illustrations.*

(*a*) A bequeaths to B—
"The debt which C owes him."
"2,000 rupees which he has in the hands of D"
"The money due to him on the bond of E."
"His mortgage on the Rampore Factory."
All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are ademed.

(*b*) A bequeaths to B—
"His interest in certain policies of life assurance."
A in his lifetime receives the amount of the policies. The legacy is ademed.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

**142.** The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

*Illustration.*

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

**143.** If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

*Illustration.*

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

**144.** Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

**145.** Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is ademed.

*Illustration.*

A bequeaths to B—
"His capital stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."
A sells the stock and the notes.
The legacies are ademed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

**146.** Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is ademed so far as regards that part of the stock which has ceased to exist.

*Illustration.*

A bequeaths to B—
"His 10,000 rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 rupees in the loan in question.
One-half of the legacy is ademed.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

**147.** A specific bequest of goods under a description connecting them with a certain place, is not ademed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

*Illustrations.*

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is ademed.

When removal of thing bequeathed does not constitute ademption.

**148.** The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

*Illustrations.*

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

**149.** Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

*Illustration.*

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of Will and testator's death.

**150.** Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

*Illustrations.*

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of 2,000*l.*, invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by Will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

**151.** Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

*Illustration.*

A bequeaths to B "all his three per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be re-placed.

**152.** Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be re-placed, and it is re-placed accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but re-placed and belonging to the testator at his death.

**153.** Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

## PART XXII.

### *Of the Payment of Liabilities in respect of the Subject of a Bequest.*

Non-liability of executor to exonerate specific legatees.

**154.** Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

*Explanation.*—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

*Illustrations.*

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamíndárí, which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

**155.** Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

*Illustrations.*

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land-revenue or rent is payable periodically.

**156.** Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

*Illustration.*

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

**157.** In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such

stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

*Illustrations.*

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime, a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

## PART XXIII.

### *Of Bequests of Things described in general Terms.*

Bequest of thing described in general terms.

**158.** If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

*Illustrations.*

(*a*) A bequeaths to C *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

## PART XXIV.

### *Of Bequests of the Interest or Produce of a Fund.*

Bequest of the interest or produce of a fund.

**159.** Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

*Illustrations.*

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

## PART XXV.

### *Of Bequests of Annuities.*

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

**160.** Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

*Illustrations.*

(*a*) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(*b*) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(*c*) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

**161.** Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

*Illustrations.*

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

Abatement of annuity.

**162.** Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

**163.** Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

## PART XXVI.

### *Of Legacies to Creditors and Portioners.*

Creditor *primâ facie* entitled to legacy as well as debt.

**164.** Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Child *primâ facie* entitled to legacy as well as portion.

**165.** Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

*Illustration.*

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

**166.** No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

*Illustrations.*

(*a*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

## PART XXVII.

### *Of Election.*

Circumstances in which election takes place.

**167.** Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Devolution of interest relinquished by the owner.

**168.** The interest so relinquished shall devolve as if it had not been disposed of by the Will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Testator's belief as to his ownership immaterial.

**169.** This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

*Illustrations.*

(*a*) The farm of Sultánpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultánpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

Bequest for a man's benefit how regarded for the purpose of election.

**170.** A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

*Illustration.*

The farm of Sultánpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultánpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will or keep his farm of Sultánpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

**171.** A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

*Illustration.*

The lands of Sultánpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultánpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultánpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultánpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

**172.** A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

*Illustration.*

The estate of Sultánpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultánpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultánpur in opposition to the Will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

*Exception to the six last Rules.*—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

*Illustration.*

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultánpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

**173** Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

*Illustrations.*

(*a*) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultánpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(*b*) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultánpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

Presumption arising from enjoyment by legatee for two years.

**174.** Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

**175.** Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

*Illustration.*

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

**176.** If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Effect of non-compliance with their request within a reasonable time.

Postponement of election in case of disability.

**177.** In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

## PART XXVIII.

### *Of Gifts in Contemplation of Death.*

Property transferable by gift made in contemplation of death.

**178.** A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

When a gift is said to be made in contemplation of death.

Such gift resumable.

When it fails.

*Illustrations.*

(*a*) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.
A bond granted by C to A.
A Bank Note.
A promissory note of the Government of India endorsed in blank.
A Bill of Exchange endorsed in blank.
Certain mortgage deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—
The watch.
The debt secured by C's bond.
The Bank Note.
The promissory note of the Government of India.
The Bill of Exchange.
The money secured by the mortgage deed.

(*b*) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c*) A being ill and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

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## PART XXIX.

### *Of Grant of Probate and Letters of Administration.*

Character and property of executor or administrator as such.

**179.** The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

**180.** When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

**181.** Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

**182.** The appointment may be express or by necessary implication.

*Illustrations.*

(*a*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

**183.** Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Grant of probate to several executors simultaneously or at different times.

**184.** When several executors are appointed, probate may be granted to them all simultaneously or at different times.

*Illustration.*

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.

**185.** If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will.

Procedure when different executors are appointed by the Codicil.

If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Accrual of representation to surviving executor.

**186.** When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

**187.** No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one hundred and eightieth Section.

Probate establishes the Will from testator's death.

**188.** Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Persons to whom letters of administration may not be granted.

**189.** Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

**190.** No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

From what period letters of administration entitle administrator to intestate's rights.

**191.** Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts of administrator not validated by letters of administration.

**192.** Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Grant of administration where executor has not renounced.

**193.** When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Exception.

Form and effect of renunciation of executorship.

**194.** The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Procedure where executor renounces or fails to accept within the time limited.

**195.** If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Grant of administration to universal or residuary legatee.

**196.** When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

**197.** When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

**198.** When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

**199.** Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

**200.** When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Order in which connections by marriage or consanguinity are entitled to administration.

**201.** If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Administration to be granted to widow unless Court see cause to exclude her.

*Illustrations.*

(*a*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

**202.** If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Persons associated with widow in administration.

**203.** If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Grant of administration where no widow, or widow excluded.

Proviso.

**204.** Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

**205.** The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

Right of widower to administration of wife's estate.

**206.** When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

Grant of administration to a creditor.

**207.** Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

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## PART XXX.

### *Of Limited Grants.*

#### (*a*). *Grants limited in Duration.*

**208.** When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of copy or draft of lost Will.

**209.** When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of contents of lost or destroyed Will.

**210.** When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

Probate of copy where original exists.

**211.** Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it, be produced.

Administration until the Will be produced.

#### (*b*). *Grants for the Use and Benefit of Others having Right.*

**212.** When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the Will annexed, to Attorney of an absent executor.

Administration, with the Will annexed to Attorney of an absent person, who, if present, would be entitled to administer.

**213.** When any person to whom, if present, letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration, with the Will annexed, may be granted to his Attorney, limited as above mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

**214.** When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration during minority.

**215.** When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before probate of the Will shall be granted to him.

Administration until one of several minor executors or residuary legatees attains majority.

**216.** When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration for use and benefit of lunatic *jus habens.*

**217.** If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration *pendente lite.*

**218.** Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

*(c). For Special Purposes.*

Probate limited to purpose specified in the Will.

**219.** If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

Administration with the Will annexed limited to a particular purpose.

**220.** If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration limited to property in which a person has a beneficial interest.

**221.** Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to a suit.

**222.** When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

**223.** If at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

**224.** In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

**225.** When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

*(d) Grants with Exception.*

Probate or administration with the Will annexed, subject to exception.

**226.** Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

Administration with exception.

**227.** Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

*(e) Grants of the Rest.*

Probate or administration of the rest.

**228.** Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

*(f) Grants of Effects unadministered.*

Grant of effects unadministered.

**229.** If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

**230.** In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

**231.** When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

*(g) Alteration in Grants.*

What errors may be rectified by the Court.

**232.** Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

**233.** If, after the grant of letters of administration with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

*(h) Revocation of Grants.*

Revocation or annulment for just cause, of grant of probate or administration.

**234.** The grant of probate or letters of administration may be revoked or annulled for just cause.

"Just cause."

*Explanation.*—Just cause is, 1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

*Illustrations.*

(*a*) The Court by which the grant was made had no jurisdiction.

(*b*) The grant was made without citing parties who ought to have been cited.

(*c*) The Will of which probate was obtained was forged or revoked.

(*d*) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e*) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(*f*) Since probate was granted, a later Will has been discovered.

(*g*) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment of executors under the Will.

(*h*) The person to whom probate was or letters of administration were granted has subsequently become of unsound mind.

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## PART XXXI.

*Of the Practice in granting and revoking Probates and Letters of Administration.*

Jurisdiction of District Judge in granting and revoking probates and letters of administration.

**235.** The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

District Judge's powers as to the granting of probate and administration.

**236.** The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge may order any person to produce testamentary papers.

**237.** The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to

in case he had been a party to a suit, and had made such dafault, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

**238.** The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

When and how District Judge is to interfere for the protection of property.

**239.** Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

**240.** Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When application is made to the Judge of a District in which the deceased had no fixed abode.

**241.** When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

Conclusiveness of probate or letters of administration.

**242.** Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

**243.** The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

**244.** Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

**245.** In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Verification of translation made by any person other than the Court translator.

Petition for letters of administration.

**246.** Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

**247.** The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

"I (*A B*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate by one of the witnesses to the Will.

**248.** Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following:—

"I (*C D*), one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*), (*or* that the said tes-

tator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence").

Punishment for making false averment in petition or declaration.

**249.** If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

**250.** In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

Publication of citation.

Caveat against grant of probate or administration.

**251.** Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

**252.** The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at , without notice to C D of ."

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

**253.** No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

Grant of probate to be under seal of the Court.

**254.** When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of letters of administration to be under seal of Court.

**255.** And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the Will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father *(or as the case may be)* of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration Bond.

**256.** Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration-bond.

**257.** The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, and letters of administration until after fourteen days, from the testator's or intestate's death.

**258.** No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

**259.** Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the pre-

servation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

**260.** After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

**261.** In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to executor or administrator before probate or letters of administration revoked.

**262.** Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Right of such executor or administrator to recoup himself for payments.

Appeals from orders made by District Judge under powers conferred by this Act.

**263.** Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent Jurisdiction of High Court.

**264.** The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

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## PART XXXII.

### *Of Executors of their own Wrong.*

Executor of his own wrong.

**265.** A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

*Exceptions.* First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

*Illustrations.*

(*a*) A uses or gives away or sells some of the goods of the deceased or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b*) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c*) A sues as executor of the deceased not being such. He is an executor of his own wrong.

Liability of an executor of his own wrong.

**266.** When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

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## PART XXXIII.

### *Of the Powers of an Executor or Administrator.*

In respect of causes of action surviving the deceased, and rents due at the time of his death.

**267.** An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

Demands and rights of action in favour of or against deceased, survive to and against his executor or administrator.

**268.** All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

*Illustrations.*

(*a*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b*) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of deceased's property.

**269.** An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

*Illustrations.*

(*a*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

**270.** If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Purchase by executor or administrator of deceased's property.

**271.** When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out admininistration.

Powers of several executors or administrators, exercise-able by one.

*Illustrations.*

(*a*) One of the several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, moveable or immoveable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payable to the deceased.

(*f*) The Will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

**272.** Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Survival of powers on death of one of several executors or administrators.

**273.** The administrator of effects unadministered has, with respect to such effects, the same power as the original executor or administrator.

Powers of administrator of effects unadministered.

**274.** An administrator during minority has all the powers of an ordinary administrator.

Powers of administrator during minority.

**275.** When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

Powers of married executrix or administratrix.

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## PART XXXIV.

### *Of the Duties of an Executor or Administrator.*

**276.** It is the duty of the executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

**277.** An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Inventory and account.

**278.** The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

**279.** Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

**280.** The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

**281.** Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid, and then the other debts.

**282.** Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assests of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

**283.** If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

*Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

**284.** No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

*Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount.

The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed ratably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

**285.** Debts of every description must be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

**286.** If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies.

**287.** If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Executor not to pay one legatee in preference to another.

Non-abatement of specific legacy when assets sufficient to pay debts.

**288.** Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

**289.** Where there is a demonstrative legacy and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

**290.** If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

*Illustration.*

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for purpose of abatement.

**291.** For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

## PART XXXV.

### *Of the Executor's Assent to a Legacy.*

Executor's assent necessary to complete legatee's title.

**292.** The assent of the executor is necessary to complete a legatee's title to his legacy.

*Illustrations.*

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of D. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to specific legacy.

**293.** The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Assent may be verbal, and either express or implied.

*Illustrations.*

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

**294.** The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

*Illustrations.*

(*a*) A bequeaths to B his lands of Sultánpur, which at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

**295.** When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Implied assent.

*Illustration.*

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

**296.** The assent of the executor to a legacy gives effect to it from the death of the testator.

*Illustrations.*

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

**297.** An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

## PART XXXVI.

*Of the Payment and Apportionment of Annuities.*

Commencement of annuity when no time fixed by Will.

**298.** Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly first falls due.

**299.** Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

**300.** Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Apportionment where annuitant dies between times of payment.

## PART XXXVII.

*Of the Investment of Funds to provide for Legacies.*

Investment of sum bequeathed where a legacy, not specific, is given for life.

**301.** Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy to be paid at a future time.

**302.** Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Intermediate interest.

Procedure when no fund is charged with or appropriated to an annuity.

**303.** Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee of amount of contingent bequest.

**304.** Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

**305.** Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

**306.** Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of the conversion and investment.

**307.** Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Interest payable until investment.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

**308.** Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money

so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

## PART XXXVIII.

### *Of the Produce and Interest of Legacies.*

Legatee of a specific legacy entitled to produce thereof from testator's death.

**309.** The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

*Illustrations.*

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

**310.** The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

*Illustrations.*

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

**311.** Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

*Exceptions.* (1.)—Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.)—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.)—Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

**312.** Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

*Exception.*—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

**313.** The rate of interest shall be four per cent. per annum.

No interest payable on arrears of annuity within first year after testator's death.

**314.** No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

Interest payable on sum to be invested to produce annuity.

**315.** Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

## PART XXXIX.

### *Of the Refunding of Legacies.*

Refund of legacy paid under Judge's orders.

**316.** When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if legacy paid voluntarily.

**317.** When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

**318.** When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under the one hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

When each legatee is compellable to refund in proportion.

**319.** When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

**320.** Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

Within what period a creditor may call upon a legatee to refund.

**321.** A creditor who has not received payment of his debt may, within two years after the death of the testator or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

**322.** If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When an unsatisfied legatee must first proceed against executor, if solvent.

**323.** If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to the refunding of one legatee to another.

**324.** The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

*Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

**325.** The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

**326.** The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

## PART XL.

*Of the Liability of an Executor or Administrator for Devastation.*

Liability of executor or administrator for devastation.

**327.** When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

*Illustrations.*

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

**328.** When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

*Illustrations.*

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

## PART XLI.

*Miscellaneous.*

Stamps and fees on instruments mentioned in this Act.

**329.** For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

Saving of rights, duties, and privileges of Administrator General.

**330.** Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI of 1860 (*to amend Act VIII of* 1855), The Regimental Debts Act, 1863, and the Administrator General's Act, 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the

limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased.

Succession to property of Hindús, Muhammadans or Buddhists, and certain Wills, intestacies and marriages, not affected by this Act.

**331.** The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Power of Governor General to exempt any race, sect, or tribe in British India from the operation of this Act.

**332.** The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the *Gazette of India.*

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## SCHEDULE.

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### STAMPS.

| | | Stamps. | | |
|---|---|---|---|---|
| Petition for probate or letters of administration where the value of the estate exceeds Rs. 500 ... | Rs. | 10 | 0 | 0 |
| Ditto where the value of the estate is less than Rs. 500 ... | Rs. | 1 | 0 | 0 |
| Probate or letters of administration | Rs. | 8 | 0 | 0 |
| Caveat ... | Rs. | 4 | 0 | 0 |
| Citation ... | Rs. | 1 | 0 | 0 |
| All petitions other than those above mentioned | Rs. | 1 | 0 | 0 |
| Inventory ... | Rs. | 1 | 0 | 0 |
| Administration-bond | Rs. | 8 | 0 | 0 |
| **FEE.** | | | | |
| Translations by the Court Translator or by order of the Court, per folio of ninety words ... | Rs. | 2 | 0 | 0 |

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information :—

### ACT No. XI OF 1865.

*An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.*

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature; It is enacted as follows :—

**1.** In this Act, unless there be something repugnant in the subject or context—

Number. — Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender. — Words importing the masculine gender include females.

"Judge." — "Judge" includes an Acting Judge.

"Section." — "Section" means a Section of this Act.

"Court of Small Causes." — "Court of Small Causes" means a Court constituted under this Act.

"Local Government." — And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

"High Court."

Repeal of Acts XLII of 1860 and XII of 1861.

**2.** Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, and Act XII of 1861 *(to amend Act XLII of 1860)* are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860 or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Constitution of Small Cause Courts.

**3.** The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any

places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Limits of their territorial jurisdiction to be fixed by Local Government.

**4.** Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ,"—and shall be subject to the general control and orders of the High Court.

Seal of the Court.

Courts to be generally subject to the High Court.

**5.** Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

Places where Courts to be held.

**6.** The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court

Suits cognizable by Small Cause Courts.

Proviso.

(1). On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2). For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3). For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4). For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

**7.** The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Power to extend jurisdiction of Small Cause Courts to Rupees 1,000.

**8.** Courts of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Jurisdiction of the Courts.

*Explanations.*—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office, in respect of any cause of action arising at such place.

(*c.*) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

**9.** Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against Government.

**10.** Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Suits against the Secretary of State.

**11.** Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Substituted service of summons.

**12.** Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Panchâyats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 *(for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registers of Deeds)*; or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Panchâyats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Suits cognizable by a Court of Small Causes, not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchâyats in Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Panchayâts in Madras.

**13.** Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

Judge of Court.

**14.** It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

**15.** The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

Local Government may invest any person for a limited period with powers of Judge of Court of Small Causes.

Powers to be exercised by persons so invested.

**16.** If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

**17.** Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any district or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

**18.** In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons.

**19.** When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the movable property of the judgment-debtor within the same limits. If the warrant be directed against the movable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

In suits cognizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or movable property.

**20.** In the execution of a decree under this Act, if, after the sale of the movable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immovable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immovable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Execution against immovable property, if movable property not sufficient.

**21.** In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it

Decision in suits tried under this Act to be final.

*Ex parte* decree may be set aside.

New trial.

shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

On deposit of debt and costs.

**22.** If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred rupees shall, draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

**23.** The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

**24.** The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

**25.** The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

**26.** The High Court when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

**27.** Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

**28.** When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to High Court to alter or set aside order or decree made in the matter.

**29.** Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Power to appoint one of the Courts of a District to be the Principal Court.

**30.** The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

**31.** The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges sit together for trial of certain suits.

**32.** If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth Sections of this Act shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

**33.** If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference between two Judges on a question of fact.

**34.** If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters above mentioned, the Judge shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

**35.** It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor General of India in Council.

Appointment of Registrar.

**36.** The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

Duties of Registrar.

**37.** If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections twenty-seven to thirty-two both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Procedure where Registrar thinks plaint defective in certain particulars.

Proviso.

**38.** If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Registrar may receive and enter up judgments by confession.

Proviso.

**39.** The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Execution of decrees by Registrar.

**40.** The local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

**41.** The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Hearing of suits cognizable by Registrar.

Transfer from Registrar's to Judge's file.

**42.** No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

Provisions applicable to such reference.

**43.** A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Setting aside decree by a Registrar under Section 38.

**44.** An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar

Appointment and removal of Clerk of the Court.

of any Court of Small Causes may also be the Clerk of the Court.

Duties of Clerk

**45.** When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

High Court empowered to make rules of practice, &c.

**46.** The High Court shall have power to make and issue general rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Section 26 of Act X of 1862, and of Act VIII of 1859 made applicable to cases cognizable under this Act.

**47.** The twenty-sixth Section of Act X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

Saving of Act XI of 1841, Section 17.

**48.** Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh and eighth Sections of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests

**49.** Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer, under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII of 1860 to be read as applying to this Act

**50.** When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

**51.** Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X of 1859.

**52.** In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by Local Government or High Court

**53.** Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th March 1865, and is hereby promulgated for general information :—

## Act No. XII of 1865.

*An Act to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.*

Preamble.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta; It is enacted as follows :—

**1.** In this Act :—

"High Court." "High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Magistrate." "Magistrate" includes a Magistrate of Police appointed under Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*).

Enactments repealed.

**2.** The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 (*to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction*) are hereby repealed.

After commencement of Act no one to be committed to Sheriff; And writs not to be issued to Sheriff.

**3.** After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

Government of Bengal may appoint Superintendent of Presidency Jail.

**4.** It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

**5.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

**6.** Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

**7.** Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

**8.** The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

**9.** Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

**10.** Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

**11.** The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Superintendent to detain such persons according to exigency of warrant.

**12.** From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

**13.** Any warrant of commitment under Regulation III, 1818, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff, under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

**14.** The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vict., cap. 21 as to prisoners, to extend to persons in custody of Superintendent.

**15.** This Act shall come into operation on the first day of April 1865.

Commencement of Act.

**16.** The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the *Gazette of India*: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*) and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

Act may be extended to Madras and Bombay.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative).*

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st March 1865, and is hereby promulgated for general information :—

ACT NO. XIII OF 1865.

*An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.*

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows :—

*Preliminary.*

Short Title.

**1.** This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation Clause.

**2.** In this Act, unless there be something repugnant in the subject or context—

"High Court." "High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay, respectively.

"Chief Justice," "Judge," &c. "Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate." "Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown." "Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the

High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India." "British India" denotes the territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Gender and Number. Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

*Of Charges where the accused is committed in a Presidency Town.*

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

**3.** Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed, within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider, and, if he will, to amend, alter, or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

**4.** The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

**5.** The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

**6.** Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Provisions of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

**7.** In Act XVIII of 1862 *(to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature)*, the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

*Nolle prosequi* on unsustainable charge.

**8.** When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

*Of Grand Juries.*

After commencement of this Act, Grand Jury not to be summoned.

**9.** From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries, shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

**10.** No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

*Of Juries in Presidency Towns.*

Certain trials to be held before Special Jurors.

**11.** Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

**12.** The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons

privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

**13.** The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving on Common Juries.

**14.** All persons whose names are entered in the "Special Jurors' List," shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

**15.** The Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Officer preparing the lists to have full discretion: no appeal from his decision.

**16.** The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Lists of Jurors to be published in the Gazette.

**17.** The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Jurors and Special Jurors to be summoned for each Sessions.

**18.** Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

*Of Challenges of Jurors in the Presidency Towns.*

Challenges.

**19.** A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

**20.** The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

High Court to retain its present jurisdiction as to Jurors in Presidency Towns, except as altered by this Act.

**21.** Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empanelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

*Of Sittings under a Commission.*

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

**22.** From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose,

authorize and direct any of the Judges of such Court to hold sittings at such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

**23.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras, in its ordinary place of sitting, but subject, as respects the exercise of original criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

**24.** From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall by his Commission for that purpose authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

**25.** The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall travel.

**26.** Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the districts or places within which such Commission shall remain in force; and such time and the limits of such districts or places shall be notified in the Official Gazette.

Power to appoint an Associate Judge.

**27.** The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may by such Commission as aforesaid associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary inquiry without the local limits of the original criminal jurisdiction.

**28.** Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits shall immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given,

and the documents directed to be sent to the Clerk of the Crown shall be sent to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Criminal Procedure Code.

**29.** The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge whether amended, altered, or added to as last aforesaid or not shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

**30.** Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal Jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

**31.** It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular Jail, being one of the Jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct further that the notice required by the twenty-eighth Section of this Act to be given and the papers required by that Section to be sent to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

Jurisdiction over European British subjects tried under Commission.

**32.** When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

**33.** The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

**34.** All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

**35.** Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subject.

**36.** If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Number of Jury requisite to verdict of guilty.

**37.** On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Acts not of a judicial nature may be done by Clerk of the Crown.

**38.** During the trial of any person before a Judge of the High Court, acting under Commission as aforesaid or by a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

**39.** So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

**40.** So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

**41.** When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the district in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed

Procedure where no such question reserved.

by the Sudder Court under the Code of Criminal Procedure.

Save as aforesaid, Criminal Procedure Code to apply to Juries under Commission.

**42.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

High Court Judge may direct Associate Judge to try any one triable under Commission not an European British subject.

**43.** If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the district in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

**44.** From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Commencement of Act.

**45.** This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the *Gazette of India*.

Act not to extend to Straits' Settlement.

**46.** This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th March 1865, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight:—

No 9 OF 1865.

*A Bill to amend Act No. X of* 1862 (*to consolidate and amend the Law relating to Stamp Duties*).

WHEREAS it is expedient to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*); It is enacted as follows:—

Act X of 1862, Section 33, repealed.

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

Governor-General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedules, or on any class of such Deeds, &c.

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that, in the whole of the British Territories in India, or in such part thereof as may be specified in the said order, such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments or Writings specified in the Schedules annexed to the said Act, or on any particular class of such Deeds, Instruments or Writings, or on any of the Deeds, Instruments or Writings belonging to any such class, or he may altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be notified in the Official Gazette.

This Act to be taken as part of Act X of 1862.

3. This Act shall be read with and taken as part of the said Act No. X of 1862.

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STATEMENT OF OBJECTS AND REASONS.

The part of the Stamp Act, which the present Bill proposes to amend, is the thirty-third Section. By that Section the Governor-General of India in Council is empowered to reduce the rate of Stamp Duty on all or any of the Deeds, Instruments and Writings described in the Schedules at the end of the Act, or altogether to exempt them from Stamp Duty. The Section, as now framed, might be supposed to be sufficiently large and comprehensive to enable the Government of India to do all that is necessary in the direction of the Section, and to meet every case in which a reduction of Stamp Duty might be deemed just or reasonable; but experience has shewn that the wording of the Section is too restrictive, and that the power given by it requires to be enlarged. An application has recently been made to the Government of India to reduce the Stamp Duty chargeable on bonds which are taken under the Indian Customs Act of 1863. These bonds are now liable to the same Stamp Duty as all other bonds or obligations for the payment of money. Compared with England the amount of Stamp Duty on bonds in this Country is high, and as levied on the class of bonds just mentioned, it is found to press heavily upon trade, and particularly upon the bonders of Salt cargoes.

Looking to the circumstances under which these bonds are taken, and to the fact that actions to enforce them are very rare, the Government are disposed to view favourably the proposition that has been made for the reduction of the rate of Stamp Duty to which they are now liable, and to follow to some extent the English practice in respect of such bonds; but they are advised that, although they have power to lower the rate of Stamp Duty on bonds generally in the whole or any part of British India, they have not power to reduce the rate of Stamp Duty on any particular class of bonds. The object of the present Bill is to invest the Government of India with this power as regards not only bonds, but also all other Deeds, Instruments and Writings liable to Stamp Duty.

H. B. HARINGTON.

*The 3rd March* 1865.

WHITLEY STOKES,
*Offg. Asst. Secy. to the Govt. of India,*
*Home Dept. (Legislative.)*

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The following Report of the Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1865 :—

## REPORT.

We the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal was referred, have the honour to report that we have considered the Bill.

In consequence of the communication referred to on the introduction of the Bill, we have extended its operation to the Lower Provinces of Bengal. We have also provided for the extension of the Bill to the Territories subject to any Local Government other than the Governments of Bengal and the North-Western Provinces. The Bill may thus become applicable to the whole of British India, and we have therefore thought it desirable to make its provisions more comprehensive and definite than was deemed necessary when, as originally intended, it applied only to the North-Western Provinces.

For the words "Advocates" and "Attorneys" we have substituted "Pleaders" and "Mookhtars," as being more familiar terms and less likely to lead to confusion. We have provided that the High Court (which is defined to mean the highest Civil Court of Appeal in any place in which the Act shall operate), shall make rules not only for the qualification and removal of persons as Pleaders and Mookhtars, but also for their examination; and we propose that the Local Government shall appoint the examiners. These rules are to be submitted to the Local Government for approval. We have further provided for the enrolment of Pleaders and Mookhtars on the Books of the High Court, and for the issue and renewal of annual certificates, stamped with a stamp varying in amount with the Courts in which the holders shall practise. In this, as in other respects, we have, to some extent, followed the provisions, though not the words, of the English Statute 6 and 7 Vic., cap. 73.

Uncertificated persons (other than Advocates and Attorneys-at-law enrolled in the High Court) practising as Pleaders or Mookhtars are to be liable to fine and imprisonment, and to be incapable of recovering fees.

The High Court is empowered to suspend or dismiss all Pleaders or Mookhtars on its Roll who shall be convicted of a criminal offence. It may also suspend or dismiss any Pleader or Mookhtar guilty of unprofessional conduct; and we have provided a procedure when a charge of such conduct is brought in a subordinate Court. On suspension or dismissal, the Pleader or Mookhtar will have to surrender his certificate.

We have struck out Sections 12 to 15, and have in lieu thereof given power to the High Court to prepare tables of fees chargeable to a party on account of the fees of his adversary's Pleader.

The provisions as to Mookhtars practising in the Revenue Courts (whom we propose to call Revenue Agents) have been made to correspond closely with those applicable to Pleaders and Mookhtars practising in the Civil Courts.

We have fixed the 1st January 1866 for the coming into operation of the Act.

We propose that the Bill as amended, together with this Report, be published for three weeks in the *Gazette of India.*

H. B. HARINGTON.
CECIL BEADON.
H. S. MAINE.
W. MUIR.
R. N. CUST.

*The 7th March* 1865.

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## AMENDED BILL.

### No. 15 OF 1864.

*A Bill to amend the law relating to Pleaders and Mookhtars.*

Preamble.

WHEREAS it is expedient to amend the law relating to Pleaders and Mookhtars; It it enacted as follows :—

*Preliminary.*

Short title.

**1.** This Act may be cited as "The Pleaders and Mookhtars' Act, 1865."

**2.** In this Act, unless there be something repugnant or inconsistent in the subject or context —

Interpretation of terms.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Number.

"Section" means a Section of this Act.

"Section."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

"Pleader" includes Vakeels.

"Pleader."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Collector."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Magistrate."

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Judge."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"Court.

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation Provinces, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"District."

"District Court."

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief revenue authority therein.

"Local Government."

"High Court."

"Board of Revenue."

**3.** So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Laws repealed.

*Of Pleaders and Mookhtars.*

**4.** The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also, from time to time, vary and add to such rules.

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

**5.** No person shall appear, plead, or act as a Pleader, or appear or act as a Mookhtar in any Court in the Territories to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

No person to practise as a Pleader or as a Mookhtar unless previously qualified or admitted and enrolled under this Act.

**6.** To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Local Government to appoint Examiners.

**7.** The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar, pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Names of Pleaders and Mookhtars to be enrolled.

**8.** The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate when renewed, as provided in the ninth Section, may be issued and signed by the Officer so appointed, or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Certificates to be issued to Pleaders and Mookhtars.

**9.** Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period

Form and duration of certificate.

of one year from the date of the certificate. At the expiration of such time the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

**10.** The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—Rs. fifty:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. twenty-five:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. fifteen:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*a.*) In the High Court and any subordinate Court—Rs. twenty-five:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rs. sixteen:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts in Regulation Provinces, and the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars in Non-Regulation Provinces—Rs. eight:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rs. four.

Pleaders may practise in Criminal Courts and Revenue Offices.

Mookhtars may plead in Criminal Courts.

**11.** Pleaders duly admitted and enrolled may appear, plead, and act in any Criminal Court, or before any Board of Revenue, or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled may appear and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

**12.** Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Any such Pleader or Mookhtar shall also be entitled, with the permission of the presiding Judge or Officer, on production of his certificate and subject to its conditions, to practise as a Pleader or Mookhtar in all other Courts or Revenue Offices within the limits of the general jurisdiction of the High Court in which he is enrolled.

Uncertificated persons practising as Pleader or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

**13.** Any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office in the Territories to which this Act extends without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

**14.** The High Court may suspend or dismiss any Pleader or Mookhtar enrolled in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

**15.** The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

**16.** If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least twenty days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report when made by a Magistrate subor-

dinate to the Magistrate of the District shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Suspension pending investigation.

**17.** The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Sec 16.

**18.** When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension, or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court to which this Act extends, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

Dismissed Pleader or Mookhtar to surrender his certificate.

*Of Agents practising in the Revenue Offices.*

**19.** No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtaind a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as hereinprovided.

**20.** The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Names of Revenue Agents to be enrolled.

**21.** Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Form of Certificate.

**22.** The stamp on such certificate, whether original or renewed, shall be of the value of five Rupees.

Value of stamp.

**23.** The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Revenue Board to ascertain qualifications of Revenue Agents.

**24.** To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid and make regulations for conducting the examinations.

Local Government to appoint examiners.

**25.** Every person who shall have been admitted to practise as a Revenue Agent under this Act, may apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, with the permission of the Officer at the head of the Office, on production of the certificate held by him, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory of the Board of Revenue in which he is enrolled.

Enrolment of Revenue Agent in Office in which he shall usually practise.

**26.** The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office who shall be convicted of any criminal offence.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

**27.** The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

**28.** If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his professional duty, the Board shall report the same to the High Court, and the High Court,

Proceedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

after making such enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

**29.** If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least twenty days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court, in which he is enrolled, which Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the person charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Power to Board to call for record.

**30.** The Board of Revenue in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

**31.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any further inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.

**32.** The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

Dismissed Revenue Agent to surrender his certificate.

**33** When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office suspending or dismissing him. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment to imprisonment in the Civil Jail for a term not, exceeding three calendar months.

Penalty on unqualified person practising as Agent.

**34.** Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

**35.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provision of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction may be revoked or suspended.

**36.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

*Of the Remuneration of Pleaders and Revenue Agents.*

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

**37.** The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts of Civil Judicature, by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be

payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

Section 37 not to apply to Agents appointed under Section 35.

**38.** The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents as to remuneration.

**39.** Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office to which this Act extends, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suits.

*Miscellaneous.*

Suitors may appear, &c., for co-suitors.

**40.** Any suitor may appear, plead, and act in any suit, appeal on other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

Rules to be submitted for approval of Local Government.

**41.** The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be submitted to the Local Government for approval, and, when such approval shall have been obtained, they shall be published in three consecutive numbers of the Official Gazette.

Advocates enrolled in a High Court may plead in any Court other than a High Court in which they are not enrolled.

**42.** Every person now or hereafter enrolled as an Advocate on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, subject nevertheless to the rules in force relating to the language in which the Court is to be addressed by Pleaders.

Attorney of a High Court may plead in any Court not a High Court.

**43.** Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to plead in any Court of British India other than a High Court, subject nevertheless to the rules referred to in the last preceding Section.

Sections 8 to 19 to apply to Vakeels of the High Court.

**44.** On and from the first day of January 1866, the provisions contained in Sections eight to nineteen both inclusive shall, *mutatis mutandis*, apply to all persons then and thereafter enrolled as Vakeels on the Roll of any High Court under the Letters Patent constituting such Court.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

**45.** Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court other than the High Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the District Judge, who shall forward the application to the High Court, and such Court shall cause the applicant to be enrolled under the provisions of this Act, and shall authorize the said Judge to grant a certificate to the applicant as provided in the eighth, ninth, and tenth Sections.

Fines subject to revision.

**46.** Every order for imposing a fine, which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue, if the order shall have been passed by an Officer subordinate to such Board.

Commencement and extent of Act.

**47.** This Act shall take effect in the territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to any part of the territories subject to such Government. Every order issued under this Section shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

**48.** From the date on which this Act shall take effect in the territories mentioned or referred to in the last preceding Section, so much of the Regulations, Acts, or Rules for the time being in force in such Territories as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in the Territories in which it hall so take effect.

## FIRST SCHEDULE.

*Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the territories to which this Act extends.*

| Number and date of Regulations. | What Code. | Title. | Extent of Repeal. |
|---|---|---|---|
| Regulation XXVII, 1814. | Bengal Code. | For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature. | So much as has not already been repealed. |
| Regulation VII, 1822. | Bengal Code. | For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land. | Section xxv. |
| Regulation IX, 1825. | Bengal Code. | For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations. | So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825. |

| Number and date of Acts. | Title. | Extent of Repeal. |
|---|---|---|
| Act I of 1846. | For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company. | The whole. |
| Act XVIII of 1852. | To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal. | The whole. |
| Act XX of 1853. | To amend the law relating to Pleaders in the Courts of the East India Company. | The whole. |
| Act X of 1859. | To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal. | So much of Section lxxi. as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix. |

## SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B. Pleader [*or* Mookhtar], whose place [*or* places] of business is [*or* are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*] and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, *or* the Moonsiffs' Courts *as the case may be*] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Registrar of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

## THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

Stamp

Pursuant to "The Pleaders and Mookhtars' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

## HOME DEPARTMENT.

No. 2535.

*Fort William, the 18th March* 1865.

NOTIFICATIONS.

His Excellency the Governor General in Council is pleased, under the 24th and 25th Victoria, Cap. 67, Section 26, to grant the Hon'ble H. S. Maine, an ordinary Member of the Council of the Governor General of India, leave of absence on medical certificate for a period of six months.

No. 2698.

*The 21st March* 1865.

Mr. William Blunt, of the Civil Service, is permitted to proceed to Europe on furlough for a period of two years, two months, and twenty-three days, from the date of embarkation.

No. 2698 A.

Mr. M. P. Hanken's appointment to be Assistant District Superintendent of Police in the Central Provinces will have effect from the 18th May 1864.

Notification No. 6569, dated 16th December 1864, is hereby cancelled so far as it is at variance with the above orders.

No. 2699.

*The 22nd March* 1865.

The Governor General in Council is pleased, under Section 9 of Act I of 1849, to delegate authority to the Commissioner of Goruckpore to receive reports and issue orders in cases coming within the said Act.

No. 2700.

The services of Captain E. R. Twyford, District Superintendent of Police, Central Provinces, are placed temporarily at the disposal of the Foreign Department from the 16th instant.

No. 2703.

*The 23rd March* 1865.

Mr. Henry Minchin Chase, of the Civil Service, is permitted to proceed to Europe on furlough for a period of eighteen months, from the date of embarkation.

No. 2704.

The under-mentioned Officers are appointed, under Act V of 1852, to be Marriage Registrars in the districts noted opposite their respective names:—

| | |
|---|---|
| Major G. Faithfull, Deputy Commissioner, 1st grade ... | Rangoon. |
| Lieutenant Colonel D. Brown, Deputy Commissioner, 1st grade ... | Amherst. |
| Mr. E. O'Riley, Deputy Commissioner, 2nd grade .. ... | Martaban. |
| Mr. H. W. Beddy, Deputy Commissioner, Officiating 3rd grade | Bassein. |
| Captain W. P. Harrison, Deputy Commissioner, Officiating 3rd grade ... ... | Martaban and Tavoy. |
| Lieutenant C. W. Street, Deputy Commissioner, Officiating 4th grade ... ... | Tavoy. |

No. 2705.

*The 24th March* 1865.

The Hon'ble C. Steer, a Judge of the High Court, availed himself, on the 20th instant, of the leave of absence granted to him in Notification No. 5761, dated the 24th of November.

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No. 2706.

Mr. W. J. R. Carnac, of the Civil Service, has reported his departure from India on board the Steamer "Candia," which vessel was left by the Pilot at sea on the 11th instant.

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No. 2707.

Mr. James Duff Ward, of the Civil Service, has reported his departure from India by the "Candia," which vessel was left by the Pilot at sea on the 11th instant.

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No. 2708.

The Revd. C. C. Anstey, of the Bengal Ecclesiastical Establishment, has been granted by the Right Hon'ble the Secretary of State an extension of leave for six months on medical certificate.

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No. 2709.

Mr. J. Graham having returned from England, resumed his duties as Standing Counsel to Government on the 15th instant.

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No. 2710.

The Governor General in Council is pleased to appoint Khwajah Villayut Hossain, of Baitool, in the Central Provinces, an Honorary Magistrate, and to invest him with the powers of a Subordinate Magistrate of the 1st Class, as described in Chapter II, Section 22, of Act XXV of 1861, within the limits of the Tehseel of Baitool.

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No. 2711.

The Governor General in Council is pleased to accept Captain E. B. Clay's resignation of his appointment of District Superintendent of Police, 4th Class, in the Central Provinces.

Mr. J. M. Berrill, District Superintendent, 5th Class, to be District Superintendent, 4th Class, from the date on which Captain Clay makes over charge.

Captain T. E. Vandergucht, Assistant District Superintendent, to be District Superintendent, 5th Class, from the same date.

Lieutenant H. A. Hammond, Assistant District Superintendent, 2nd Class, to be Assistant District Superintendent, 1st Class, from the same date.

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No. 2714.

The following Notification relative to a Horticultural Show to be held in South Kensington in December next, is published for general information:

ROYAL HORTICULTURAL SOCIETY,

SOUTH KENSINGTON.

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INTERNATIONAL FRUIT SHOW.

*From Saturday, 9th December, to Saturday, 16th December* 1865, *inclusive.*

The Gold Medal of the Society will be awarded for the best collection of Fruit and Vegetables produced in the garden of a Sovereign.

2. The Gold Medal of the Society for the best collection of Fruit and Vegetables grown by any Botanic or Horticultural Society in any part of the world.

3. The Gold Medal of the Society for the best and most complete *representative* collection of Fruit and Vegetables from any of the Colonies.

4. First Banksian Gold Medal for the best and most complete *representative* collection from the Presidencies of India.

5. Certificates will be awarded for separate exhibitions of Fruits and Vegetables, either fresh or preserved, from all parts of the world.

6. The first Gold Knightian Medal of the Society to the exhibitor who shall obtain the greatest number of first-class certificates.

7. The second Gold Knightian Medal to the exhibitor who shall obtain the greatest number of second-class certificates.

8. The second Gold Banksian Medal to the exhibitor who shall obtain the greatest number of third-class certificates.

9. The first Gold Banksian Medal to the exhibitor who shall gain the greatest number of marks, counting first, second, and third certificates as three, two, and one marks respectively.

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No. 2715.

Lieutenant W. C. Plant, Officiating Deputy Commissioner, 4th grade, received charge of the Office of Superintendent of Police at Sandoway from Mr. H. W. Beddy on the forenoon of the 26th January.

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No. 2717.

Sub-Assistant Surgeon C. E. Pyster, in Medical charge of Sandoway, made over charge of his duties to Native Doctor Shaik Abdoollah on the afternoon of the 3rd December last.

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No. 2719.

The under-mentioned Civil Assistants and Sub-Assistants of the Topographical Branch, Survey Department, are promoted to the next superior

grades with effect from the 1st April 1865, as follows:—

| | |
|---|---|
| Mr. H. Hörst ... | From 2nd Civil Assistants to Senior Civil Assistants. |
| „ R. A. Bell ... | |
| „ C. H. T. Neale ... | |
| „ J. F. Baness ... | |
| „ A. C. Chamarett ... | |
| Mr. H. J. Bolst ... | From Senior Sub-Assistants to 2nd Civil Assistants. |
| „ G. A. McGill ... | |
| „ D. Atkinson ... | |
| Mr. J. Vanderputt ... | From 1st Class to Senior Sub-Assistants. |
| „ R. W. Chew ... | |
| Mr. A. J. Wilson ... | From 2nd to 1st Class Sub-Assistant. |
| Mr. W. Chapman ... | From 3rd to 2nd Class Sub-Assistant. |

No. 2721.

*Erratum.*—In Notification No. 1433, dated the 15th ultimo, for

"Probationary Sub-Assistants to be Junior Sub-"Assistant Revenue Surveyors,"

read

"Probationary Sub-Assistants of the 3rd Class "to be Sub-Assistants of that Class."

E. C. Bayley,
*Secy. to the Govt. of India.*

No. 2723.

*Fort William, the 24th March* 1865.

Notification.

Under Section 45, Act No. XIII of 1865, the Governor General of India in Council has been pleased to appoint the first day of May 1865 as the date on which the aforesaid Act, entitled an "Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency towns," is to come into operation at Fort William in Bengal, at Madras, and at Bombay respectively.

By order of the Governor General of India in Council,

E. C. Bayley,
*Secy. to the Govt. of India.*

## FOREIGN DEPARTMENT.

Judicial.

No. 99.

*Fort William, the 22nd March* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to extend Section 34 of Act V of 1861 to the Cantonment of Ellichpore, in the Hyderabad Assigned Districts.

No. 101.

The Governor General in Council is pleased, under the provisions of Section 39, to extend Act XXII of 1864 to the Mysore and Bangalore Cantonments in Mysore.

Military.

No. 125.

*The 21st March* 1865.

His Excellency the Viceroy and Governor General in Council is pleased to direct that the Bhopal Levy for the future be designated the "Bhopal Battalion."

Political.

No. 254.

*The 22nd March* 1865.

Captain E. B. Sladen, received charge of the Office of Agent to the Chief Commissioner, British Burmah, at Mandalay, from Dr. C. Williams on the 7th February 1865.

General.

No. 641.

*The 17th March* 1865.

The services of Mr. J. W. Quinton, B. A., are placed at the disposal of the Chief Commissioner of Oudh, for employment in that province.

No. 676.

*The 21st March* 1865.

Lieutenant J. Rutherford, Assistant Superintendent, Revenue Survey, Southern Mahratta country, is appointed Assistant Superintendent in the Mysore Revenue Survey, with effect from 1st February 1865.

No. 678.

Lieutenant W. E. Forbes, Assistant Settlement Commissioner in Oudh, sailed for Madras on the Steamer "Candia," which vessel was left by the Pilot at sea on the 11th instant.

No. 679.

Mr. H. G. Ross, Assistant Commissioner in Oudh, reported his return to his duties on the 8th instant, from sick leave to Europe.

No. 680.

Lieutenant (Brevet Captain) G. E. Fryer, 21st Regiment M. N. I., appointed Officiating Assistant Commissioner in British Burmah in Notification No. 1554, dated 13th December last, is appointed a permanent Assistant Commissioner in the British Burmah Commission from the date he entered on the duties of Assistant Secretary to the Chief Commissioner of British Burmah, viz., 21st January 1865.

No. 681.

Lieutenant W. C. Plant, Assistant Commissioner, 2nd grade, British Burmah, is appointed to be an Officiating Deputy Commissioner, 4th grade, with effect from the 26th January last, the date on which he assumed charge of the Sandoway District from Mr. H. W. Beddy.

No. 683.

Lieutenant G. A. Strover, Assistant Commissioner, 3rd grade, British Burmah, is appointed to officiate temporarily as Magistrate and Deputy Commissioner of the 4th grade at Akyab.

Lieutenant W. G. Hughes, Assistant Commissioner, 3rd grade, made over charge of his Office in the Kankareit Sub-Division of the Amherst District to Moung O, Extra Assistant Commissioner, 3rd grade (Myoke), on the forenoon of the 2nd February 1865, and received charge of the Office of Assistant Commissioner, Martaban Subdivision, from Lieutenant G. A Strover, on the forenoon of the 9th idem.

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No. 690.

*The 22nd March* 1865.

The services of Mr. Dinshajee Sorabjee, Officiating Extra Assistant Commissioner, 4th Class, in the Central Provinces, are placed at the disposal of the Resident at Hyderabad for employment in Berar.

His Excellency the Viceroy and Governor General in Council is pleased to appoint Shaikh Boodun to officiate as an Extra Assistant Commissioner of the 4th Class in the room of Moonshee Buktawur Singh, on leave.

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No. 691.

Messrs. Dinshajee Sorabjee, Officating Extra Assistant Commissioner, Central Provinces, and Atmaram Bhicajee, Tehseeldar, Akola District, are appointed Extra Assistant Commissioners in the Hyderabad Assigned Districts.

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No. 693.

Mr. A. R. Hutton is appointed to be an Extra Assistant Commissioner of the 3rd Class, in Oudh, with effect from the 9th January 1865.

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No. 695.

The services of Mr. M. S. Champneys, C. S., are placed at the disposal of the Punjab Government.

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No. 698.

Mr. E. Bickers, Extra Assistant Commissioner of Lucknow, availed himself, on the evening of the 9th instant, of the one month's privilege leave granted to him in G. O. No. 568, dated the 13th idem.

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No. 710.

*The 23rd March* 1865.

His Excellency the Governor General in Council is pleased to appoint Mr. D. F. Lonsdale, Collector of Customs at Thayetmyo, to be an Assistant Commissioner of the 3rd grade, in British Burmah, from this date.

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No. 713.

Assistant Surgeon T. M. Lownds, resumed medical charge of the Rajpootana Agency, and his duties as Superintendent of the Raj Dispensaries from Assistant Surgeon W. J. Moore, on the afternoon of the 6th instant.

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No. 717.

*The 24th March* 1865.

Mr. R. S. H. Haldane, Extra Assistant Commissioner in Oudh, availed himself, on the 1st instant, of the three months' privilege leave granted him in G. O. No. 337, dated 10th ultimo.

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No. 718.

Mr. H. W. Beddy, Officiating Deputy Commissioner, 3rd grade, British Burmah, assumed charge of the Bassein District from Captain F. N. Bayly, Assistant Commissioner, 1st grade, on the forenoon of the 11th ultimo.

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No. 719.

Lieutenant H. R. Spearman, Assistant Commissioner, 3rd grade, in British Burmah, made over charge of the Prome District Treasury at Thayetmyo to Mr. DeCourcy Ireland, Assistant Commissioner, 3rd grade, on the afternoon of the 7th ultimo, and received charge of the office of Assistant Commissioner, 3rd grade, at Sittang, on the forenoon of the 21st idem.

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No. 720.

Mr. A. F. Millet, appointed to the Oudh Commission in G. O. No. 492, dated 2nd instant, reported his arrival at Lucknow on the 15th instant, and is posted to the Oonao District.

A. Colvin,

*Offg. Under Secy. to the Govt. of India.*

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## FINANCIAL DEPARTMENT.

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No. 1606.

*Fort William, the 22nd March* 1865.

Notifications.

Mr. L. C. Probyn, Deputy Auditor and Accountant General, Punjab, has been allowed by the Right Hon'ble the Secretary of State for India an extension of leave for six months on medical certificate.

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No. 1627.

Mr. H. A. Mangles resumed charge of the office of Civil Pay Master, Bombay, from Mr. P. Gunoba, in the forenoon of the 8th March 1865.

E. H. Lushington,

*Secy. to the Govt. of India.*

## MILITARY DEPARTMENT.

*Fort William, the 18th March 1865.*

*No.* 287 *of* 1865.—The services of Major J. C. Dickson, of the late 33rd Native Infantry, are placed at the disposal of the Public Works Department as a special and temporary arrangement.

*The 20th March 1865.*

*No.* 288 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

PUNJAB IRREGULAR FORCE.

*4th Sikh Infantry.*

Assistant Surgeon R. Mantell, M. B., to the medical charge, temporarily, during the absence on sick leave of Surgeon Webb, or until further orders.

*No.* 289 *of* 1865.—The services of Major T. Rattray, of the Bengal Staff Corps, Deputy Inspector General of Police in the Bengal Dooars, are placed at the disposal of the Commander-in-Chief for appointment to a post under His Excellency's orders.

*No.* 290 *of* 1865.—His Excellency the Governor General in Council is pleased to make the following temporary promotion and appointment:—

*Quarter Master General's Department.*

Captain H. Maxwell, Deputy Assistant Quarter Master General, to officiate as Assistant Quarter Master General during the absence on sick leave to Europe of Major F. Roberts, V. C., or until further orders.

Lieutenant C. P. Stone, of Her Majesty's 77th Foot, to officiate as Deputy Assistant Quarter Master General, vice Captain Maxwell.

*No.* 291 *of* 1865.—The services of Captain C. Batchelor, late 3rd European Light Cavalry, 2nd in Command and Squadron Officer, 18th Bengal Cavalry, are placed at the disposal of the Government of the Punjab.

*No.* 292 *of* 1865.—Captain J. C. Wood, of the Bengal Staff Corps, is allowed leave of absence for ten days, from such date as he may have availed himself of it, to visit Bombay preparatory to proceeding to Europe on medical certificate.

*No.* 293 *of* 1865.—With reference to the Notification from the Home Department, No. 2452 of the 11th March 1865, the services of 2nd Captain F. FitzRoy, of the Royal Artillery, Superintendent of the Pegu Survey, are placed at the disposal of His Excellency the Commander-in-Chief from the date on which he made over charge of his office.

*No.* 294 *of* 1865.—*Erratum.*—In Government General Order No. 166 of the 14th February 1865, admitting certain men of Regiments attached to the "Dooar Field Force," for Sepoy "Gooru Beer" read Sepoy *Goon Beer.* Order Books to be corrected accordingly.

*No.* 295 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Surgeon William George Ward Clemenger, A. B. and M. B., of the Medical Department, in medical charge of the 5th Goorkha Regiment. | For 20 months, under the new Regulations. |
| Lieutenant Thomas Truman Oliphant, of the late 5th European Regiment, Doing-duty Officer, 1st Punjab Infantry. | For 20 months, under the new Regulations. |

*No.* 296 *of* 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an Out-pensioner of Chelsea Hospital according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of his pension:—

Private William Henry Dean, of Her Majesty's 51st Light Infantry.

*No.* 297 *of* 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

| | |
|---|---|
| Captain John Beresford Smyly, of the Bengal Staff Corps, Assistant Commissioner, Punjab. | For 20 months. |
| Lieutenant Ellis Burroughes Ward, of the late 48th Regiment Native Infantry, District Superintendent of Police, Baraitch. | For 20 months, under the new Regulations. |

*The 21st March 1865.*

*No.* 298 *of* 1865.—The services of Lieutenant, W. Tweedie, of the Bengal Staff Corps, Adjutant 1st Cavalry Hyderabad Contingent, are placed temporarily at the disposal of the Foreign Department, with effect from the 16th instant.

*No.* 299 *of* 1865.—The following promotions are made in the under-mentioned Corps of the Native Infantry :—

| Corps. | Rank and Names. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| 1st Goorkha Regiment Light Infantry | Jemadar Jewa Khawas ... | Subadar | 4th June 1861 | Dhun Sing Gurung, invalided. |
| Ditto | Havildar Gungaram Bhist | Jemadar | Ditto | Jewa Khawas, promoted. |

This cancels the promotion of Jemadar Jewa Khawas in room of Johur Sing Thappa, of the 1st Goorkha Light Infantry, announced in Government General Order No. 105 of the 28th January 1862.

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*No.* 300 *of* 1865.—The under-mentioned Officers have reported their return from England :—

| | *Date of arrival at Fort William.* |
|---|---|
| Major H. A. Brownlow, of the Royal Engineers, Executive Engineer, 1st Class, Department of Public Works.<br>Major J. Leven, of the Bengal Staff Corps, Deputy Assistant Commissary General. | 14th March 1865. |

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*No.* 301 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Deputy Inspector General of Hospitals Robert Bancroft Kinsey, F. R. C. S., of the Medical Department. | For 20 months, under the new Regulations. |

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*No.* 302 *of* 1865.—The under-mentioned Soldier of Her Majesty's service is permitted to reside and draw his pay in India as an Out-pensioner of Chelsea Hospital, according to the Royal Warrant of the 23rd July 1864, pending a reference to the Home Authorities as to the amount of his pension :—

Gunner James Brown, of B Battery, 19th Brigade Royal Artillery.

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*No.* 303 *of* 1865.—At the recommendation of His Excellency the Commander-in-Chief, grounded on the long and meritorious services of the under-mentioned Native Officer, His Excellency the Governor General in Council is pleased to sanction the Brevet Pay of his rank being continued to him, with effect from the date of his transfer to the Invalid Pension Establishment :—

Subadar Major Phekoo Lall, late of the 3rd Battery, 25th Brigade Royal Artillery.

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*The 22nd March* 1865.

*No.* 304 *of* 1865.—Captain H. B. Chalmers, Assistant Commissary General, is allowed leave of absence from the 1st to the 10th April 1865, to visit the Presidency, preparatory to applying for leave of absence on medical certificate to Europe.

*No.* 305 *of* 1865.—The under-mentioned Officer of the Royal Engineers, who has been placed under orders for duty in the Bengal Presidency, reported his arrival on the date specified below :—

| | *Date of arrival at Fort William.* |
|---|---|
| Lieutenant Thomas Hungerford Holdich. | 3rd March 1865. |

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*No.* 306 *of* 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names :—

| | |
|---|---|
| Assistant Surgeon G. C. Chesnaye, of the Medical Department, 2nd Assistant Surgeon, Allahabad General Hospital, on leave for twenty months, Government General Order No. 192 of the 21st February 1865. | "Nemesis," 25th February 1865. |
| Lieutenant Colonel G. Jackson, of the Bengal Staff Corps, Commandant 2nd Bengal Cavalry, on leave for twenty months, Government General Order No. 212, of the 28th February 1865.<br>Surgeon T. Atchison, of the Medical Department, on furlough for two years, Government General Order No. 123 of the 3rd February 1865. | "Arabia," 3rd March 1865. |
| Lieutenant F. V. Eyre, of the Royal Artillery, Commissary of Ordnance, 3rd Class, on leave for twenty months, Government General Order No. 150 of the 9th February 1865. | "Cashmere," 4th March 1865. |
| Conductor J. Lynch, of the Ordnance Commissariat Department, attached to the Office of the Examiner, Ordnance Accounts, on leave for twenty months, Government General Order No. 4 of the 3rd January 1865. | "City of Paris," 5th March 1865. |

| | |
|---|---|
| Sub-Conductor C. Montagu, of the Department of Public Works, on leave for one year, Government General Order No. 192 of the 21st February 1865.<br>Conductor A. Simmons, of the Army Commissariat Department, on leave for twenty months, Government General Order No. 192 of the 21st February 1865. | "City of Nankin," 9th March 1865. |
| Lieutenant Colonel J. P. Beadle, of the Royal Engineers, Chief Engineer and Secretary to the Government of Bengal, Public Works Department, on leave for twenty months, Government General Order No. 130 of the 3rd February 1865.<br>Captain (Brevet Major) M. J. Brander, of the late 40th Regiment Native Infantry, Deputy Assistant Commissary General, on leave for twenty months, Government General Order No. 226 of the 3rd March 1865.<br>Major J. Tickell, of the Bengal Staff Corps, on leave for twenty months, Government General Order No. 205 of the 27th February 1865.<br>Captain C. D. Newmarch, of the Royal Engineers, Chief Engineer, British Burmah, and Secretary to the Chief Commissioner, in the Public Works Department, on leave for twenty months, Government General Order No. 124 of the 3rd February 1865.<br>Captain J. B. Saunders, of the late 4th European Light Cavalry, Brigade Major, Allahabad, on furlough for three years, Government General Order No. 233 of the 6th March 1865.<br>Captain T. G. Montgomerie, of the Royal Engineers, Astronomical Assistant, Great Trigonometrical Survey of India, on leave for twenty months, Government General Order No. 226 of the 3rd March 1865. | "Candia," 11th March 1865. |
| Assistant Surgeon J. Picthall, M. D., L. R. C. P., of the Medical Department, on leave for eighteen months, Government General Order No. 236 of the 7th March 1865. | "Candia," 11th March 1865. |

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*No.* 307 *of* 1865.—With reference to the Notification issued by the Government of the North-Western Provinces, No. 895 A, dated 16th instant, the services of Assistant Surgeon H. C. Cutcliffe, F. R. C. S., Civil, Deyrah Dhoon, are placed at the disposal of the Commander-in-Chief for appointment to a post under His Excellency's orders.

---

*The 23rd March* 1865.

*No.* 308 *of* 1865.—The following orders issued by the Government of Bombay are confirmed :—

| | |
|---|---|
| *No.* 154, *dated* 15*th March* 1865.—Granting leave of absence to Europe on medical certificate to Lieutenant A. FitzHugh, of the Bengal Staff Corps, Wing Officer, 4th Regiment Sikh Infantry. | For 20 months, embarking at Kurrachee. |
| *No.* 156, *dated* 15*th March* 1865.—Granting leave of absence to Europe on medical certificate to Assistant Apothecary J. N. White, of the Subordinate Medical Department. | For 2 years, embarking at Kurrachee. |

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*No.* 309 *of* 1865.—His Excellency General Sir Hugh Rose, G. C. B., K. S. I., having embarked for England, General Sir William R. Mansfield, K. C. B., appointed to be Commander-in-Chief of the Forces in the East Indies, as announced in Government General Order No. 269 of the 15th instant, has assumed Command from this date.

Ordered that all Returns of the Army be made in the usual manner to General Sir W. R. Mansfield, K. C. B., as Commander-in-Chief in India.

*The 24th March* 1865.

*No.* 310 *of* 1865.—The following promotions are made, subject to Her Majesty's approval :—

| Corps. | Rank and Names. | To what rank promoted. | From what date. | In whose room. |
|---|---|---|---|---|
| Cadre of the late 51st N. I. | Captain (Lieutenant Colonel in Staff Corps) Samuel Hugh James Davies. | Major ... | 27 Oct. 1864 | Major (Brevet Colonel) S. A. Abbott, Cadre of late 51st N. I., retired. |
| | Lieutenant (Brevet Captain) Edward Pitches Wilson Ripley. | Captain ... | | |
| Bengal Infantry ... | Major (Lieutenant Colonel in the Staff Corps) Robert Renny, from Cadre of late 47th N. I. | Lieut. Colonel | 12 Mar. 1865 | Lieut. Colonel J. L. Walker, Bengal Infantry, deceased. |
| Cadre of the late 47th N. I. | Captain (Lieutenant Colonel in the Staff Corps) Robert Campbell. | Major ... | | |
| | Lieutenant (Brevet Captain) William Gordon. | Captain ... | | |
| Bengal Infantry ... | Major (Brevet Lieutenant Colonel) Henry Richard Shelton, from Cadre of the late 38th N. I. | Lieut. Colonel | 12 Mar. 1865 | Lieut. Colonel R. Renny, Staff Corps, removed from the list of Regimental Lieut. Colonels. |
| Cadre of the late 38th N. I. | Captain (Major in the Staff Corps) Julius Bentall Dennys. | Major ... | | |
| | Lieutenant (Captain in the Staff Corps) Montagu Mitchell Procter | Captain ... | | |

*No.* 311 *of* 1865.—The under-mentioned Surgeons of the Medical Department are promoted to the rank of Surgeon Major, under the provision of Government General Order No. 507 of the 20th June 1864, subject to Her Majesty's approval :—

| Rank and Names. | From what date. |
|---|---|
| Surgeon John Nicholas Tressider ... | 1st March 1865. |
| „ St. George Wade Tucker, M.D. | 14th „ „ |
| „ Charles Manners Smith ... | 19th „ „ |

*No.* 312 *of* 1865.—The under-mentioned Officer having completed twenty years' service, six years of which were on permanent staff employ, to be Major from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :—

*Bengal Staff Corps.*

Captain F. K. Bacon ... 19th March 1865.

*No.* 313 *of* 1865.—The under-mentioned Officer having completed twelve years' service, four years of which were on permanent staff employ, to be Captain from the date specified opposite to his name, under the Royal Warrant of the 16th January 1861, subject to Her Majesty's approval :

*Bengal Staff Corps.*

Lieutenant (Brevet Captain) B. R. Chambers ... 23rd March 1865.

*No.* 314 *of* 1865.—The following promotions by Brevet are made under the operation of Government General Order No. 632 of the 4th August 1864, subject to Her Majesty's approval :—

BREVET.

| Corps. | Rank and Names. | Date from which entitled to the rank of Lieutenant Colonel. |
|---|---|---|
| | *To be Lieutenant Colonel.* | |
| Cadre of late 64th N. I. | Major Harry Elliott Young ... ... ... ... ... | 9th March 1865. |
| | *To be Majors.* | Date from which entitled to the rank of Major. |
| Cadre of late 34th N. I. | Captain Abraham Charles Bunbury ... ... ... ... | 1st January 1864. |
| | Captain Francis Henry Hanmer ... ... ... ... | 9th December 1864. |
| Cadre of late 9th N. I. | Captain Henry John Allan ... ... ... ... ... | 19th March 1865. |

*No.* 315 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on urgent private affairs :—

| | |
|---|---|
| Captain Samuel Boulderson, of the late 5th European Light Cavalry. | For 6 months, without pay. |

*No.* 316 *of* 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

| | |
|---|---|
| Surgeon Major John Barton Harrison, M. D., of the Medical Department, attached to the 27th (Punjab) Regiment Native Infantry ... | For 20 months, under the new Regulations. |

*No.* 317 *of* 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India :—

| | |
|---|---|
| Lieutenant (Brevet Captain) George Bowen Cassan Simpson, of the late 23rd Regiment Native Infantry, doing duty Officer, 14th Bengal Cavalry (now Brigade Major, Meerut). | 19th February 1261. |

H. W. NORMAN, *Colonel,*
*Secy. to the Govt. of India.*

## PUBLIC WORKS DEPARTMENT.

ESTABLISHMENT.

No. 96.

*Fort William, the 20th March* 1865.

NOTIFICATIONS.

Corporal J. Herliby, Bombay Sappers and Miners, is appointed to the Public Works Department as an Overseer of the 1st grade, with effect from the 25th January 1865, and posted to Hyderabad.

No. 97.

Mr. S. W. Nugent, Assistant Engineer, 1st grade, attached to the Punjab, having been permitted by the Hon'ble the Secretary of State to resign his appointment in the Public Works Department, he is struck off the strength of the Public Works Establishments, with effect from the 12th January 1865.

No. 98.

Sergeant J. Robinson, Overseer, 1st grade, Oudh, is remanded to Regimental duty for misconduct.

No. 99.

Mudwa Rao, temporary Supervisor, attached to the Public Works Department, Mysore, has been granted fifteen days' privilege leave from the date he availed himself of it.

No. 100.

*The 22nd March* 1865.

Captain W. H. Burton, R. E., is re-appointed to the Public Works Department as a Special Assistant Engineer and posted to the Berar Division, Hyderabad, and the portion of Notification No. 66, dated 28th February 1865, transferring Captain F. G. S. Parker from the Punjab to Hyderabad, is hereby cancelled.

No. 101.

Gunner W. E. Lippert, Overseer, 1st grade, attached to the Public Works Department, Mysore, has been granted one month's leave from such date as he might avail himself of the same.

No. 102.

Gunnesh Gopaul, Overseer, 2nd grade, Rajpootana Circle, is permitted to resign his appointment in the Public Works Department.

No. 103.

In continuation of Notification No. 369 of the 23rd December 1864, Sergeant J. Edmund, R. A., Accountant, 4th grade, attached to the Office of the Accountant General, Public Works Department, is granted an extension of three months' leave on private affairs without pay.

No. 104.

*The 23rd March* 1865.

Lieutenant Colonel C. H. Dickens, R. A., Chief Engineer, 2nd Class, and Secretary, in the Public Works Department, to the Chief Commissioner, Central Provinces, is appointed Secretary to the Government of India, in the Public Works Department, vice Colonel R. Strachey, R. E., who is permitted to resign his appointment on the occasion of his proceeding to Europe on furlough.

Lieutenant Colonel Dickens assumed charge of the Office on the afternoon of the 22nd March 1865.

E. C. S. WILLIAMS, *Captain,* R. E.
*Under Secy. to the Govt. of India.*

No. 105.

*The 24th March* 1865.

Mr. E. Durrant, Supervisor, 1st grade, attached to the Rajpootana Circle, Public Works, is posted to the Mhow Division.

No. 106.

Captain B. J. C. Prior, M. S. C., Officiating Controller of Public Works Accounts, Central Provinces, having resumed charge of his duties on the forenoon of the 13th March 1865, the unexpired portion of the leave granted to him in Public Works Department Notification No. 12 of 17th January last, is cancelled.

No. 107.

Major J. F. Tennant, R. E., Executive Engineer, Arracan Division, British Burmah, resumed charge of his duties on the 27th February 1865.

No. 108.

Lieutenant Colonel J. E. F. Nicolls, R. E., made over charge of the office of the Chief Engineer and Secretary to Chief Commissioner of Oudh, on the afternoon of the 9th March 1865, to Mr. W. D. Bruce, Assistant to the Chief Engineer and Assistant Secretary to the Chief Commissioner.

C. H. DICKENS, *Lieut. Col.*, R. A.,
*Secy. to the Govt. of India.*

## ADVERTISEMENTS.

### NOTICE.

The undersigned having arranged with his creditors, has, with the permission of the Court, withdrawn his petition of Insolvency.

WM. C. STEWART.

CALCUTTA,
*14th March* 1865.

### NOTICE.

Mr. W. C. Stewart having obtained an order of the Court for the withdrawal of his petition of Insolvency, I have no further claim against his Estate.

JOHN COCHRANE,
*Official Assignee.*

CALCUTTA,
*The 11th March* 1865.

Government Promissory Note No. 333 of 23889 of 1859-60, for Rupees 1,000, at 5½ per cent., belonging to me, has been destroyed by acid.

RAMCOOMAR CHATTERJEE,
*Head Asst., Barrackpore Exe. Commt. Office.*

BARRACKPORE,
*The 6th March* 1865.

### PRELIMINARY ANNOUNCEMENT.

IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

*By order of the Mortgagees,*

The well-known Indigo Factories called the Allumchund Concern, at Allahabad, with valuable Talook property attached thereto and Koontee crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontee crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Morun and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

*Statement of Government Promissory Notes enfaced throughout India, for Payment of Interest in London, showing the total Amount outstanding up to 28th February 1865, according to the Registers received in this Office.*

| | 4 per cent. of 1824-25. | 4 per cent. of 1828-29. | 4 per cent. of 1832-33. | 4 per cent. of 1835-36. | 4 per cent. of 1842-43. | 4 per cent of 1854-55. | 5 per cent. Public Works of 1854-55. | 5 per cent. of 1856-57. | 5½ per cent. of 1859-60. | 3½ per cent. of 1853-54. | 1½ per cent. of 1856-57. | Total Rs. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amount on which Interest is now payable in London ... | 53,000 | 2,300 | 25,59,500 | 22,92,000 | 96,04,000 | 66,44,100 | 32,39,600 | 4,80,03,300 | 2,41,22,600 | 17,600 | 16,000 | 9,65,54,000 |

FORT WILLIAM;
LOAN OFFICE,
*The 21st March* 1865.

R. P. HARRISON,
*Actg. Genl. to the Govt. of India.*

*Printed and Published for the Government of India, by* O. T. CUTTER, *at the Military Orphan Press.*